

PLEASE READ

THIS DRAFT OF THE PROPOSED AMENDMENTS TO THE OIL AND GAS ORDINANCE IS A DISCUSSION DRAFT ONLY.

SOME OF THE PROPOSED AMENDMENTS SHOWN ON THIS RED-LINED DOCUMENT MAY ALREADY BE SLATED FOR REMOVAL OR MODIFICATION.

HOWEVER, DUE TO TIMING CONSTRAINTS, IT HAS NOT BEEN POSSIBLE TO MAKE THOSE CHANGES PRIOR TO THE FIRST COMMUNITY MEETING ON THIS MATTER.

IN ORDER TO ENSURE THAT THE DOCUMENT IS MADE AVAILABLE TO THE PUBLIC VIA THE COUNTY WEB PAGE PRIOR TO THIS MEETING, WE ARE POSTING IT AS-IS, WITH THE CAVEAT THAT ANY CHANGES AS DESCRIBED ABOVE WILL BE DISCUSSED AT THE COMMUNITY MEETING(S).

BOARD OF COUNTY COMMISSIONERS
OF RIO ARRIBA COUNTY, NEW MEXICO

ORDINANCE NO. ~~2009-13-034~~

AN ORDINANCE, ~~AMENDING ORDINANCE NO. 2009-01, WHICH INTENDED TO~~
ADDRESS OIL AND GAS EXPLORATION, DRILLING, PRODUCTION,
TRANSPORTATION, ABANDONMENT AND RECLAMATION WITHIN RIO ARRIBA
COUNTY REQUIRING THE APPROVAL OF ~~AN EXPLORATORY~~ PERMIT FOR
EXPLORATION ~~AND DEVELOPMENT~~ ACTIVITIES RELATED TO OIL AND GAS
AND PROVIDING FOR THE DIVISION OF THE COUNTY INTO TWO ENERGY
RESOURCE DISTRICTS; THE ENERGY RESOURCES DEVELOPMENT DISTRICT,
REQUIRING A ~~CONDITIONAL USE DEVELOPMENT~~ PERMIT FOR THE
INSTALLATION, CONSTRUCTION, DEVELOPMENT AND OPERATION OF OIL
AND GAS FACILITIES IN THAT DISTRICT, AND THE FRONTIER DISTRICT,
REQUIRING THE APPROVAL OF A SPECIAL USE PERMIT AND SUBSEQUENT
NOTICE TO PROCEED FOR THE INSTALLATION, CONSTRUCTION,
DEVELOPMENT AND OPERATION OF OIL AND GAS FACILITIES WITHIN THAT
DISTRICT, AND FURTHER PROVIDING FOR THE PROCESSES AND CRITERIA
FOR REQUESTING AND OBTAINING SUCH APPROVALS AND FEES FOR THE
SAME, STANDARDS FOR OIL AND GAS FACILITIES, VARIANCES, APPEALS, THE
ENFORCEMENT OF THIS ORDINANCE AND OTHER RELATED MATTERS;

AND

**FURTHER PROVIDING VARIOUS CORRECTIVE AND SUBSTANTIVE
AMENDMENTS TO THE PROVISIONS OF THE ORDINANCE**

AND

**AMENDMENDING THE DISTRICT BOUNDARIES, THE FEES ASSOCIATED WITH
APPLICATIONS, THE SUBMITTAL REQUIREMENTS AND DEVELOPMENT
STANDARDS**

AND

**FURTHER PROVIDING A DECLARATION OF A BILL OF RIGHTS FOR THE
RESIDENTS AND NATURAL ENVIRONMENT OF THE COUNTY, INCLUDING THE
PEOPLE'S UNALIENABLE RIGHT TO SELF-GOVERNANCE**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF RIO
ARRIBA COUNTY, NEW MEXICO:

ARTICLE 1
GENERAL

1.1 SHORT TITLE

This Ordinance shall be ~~officially cited~~ known as the "Rio Arriba County Oil and Gas

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Ordinance.”

1.2 AUTHORITY, ~~APPLICABILITY~~

This Ordinance is promulgated pursuant to the authority set forth in Articles II, X and XIII of the New Mexico Constitution (1912, with subsequent amendments); and to the following sections of the New Mexico Statutes Annotated: N.M.S.A. 1978, § Section 4-37-1 (1975), N.M.S.A. 1978, §§ Sections 3-21-1 et seq., N.M.S.A. 1978, §§ Sections 3-19-1 et seq.; N.M.S.A. 1978, §§ Sections 3-18-1 et seq., and N.M.S.A. 1978, §§ 19-10-4.1, 4.2 and 4.3 (1985).

1.3 ~~APPLICABILITY~~

This Ordinance constitutes an exercise of ~~the Rio Arriba~~ County’s independent, and separate but related police, zoning, planning, and public nuisance abatement powers ~~for to protect~~ the health, safety and general welfare of ~~the Rio Arriba County (the “County”)~~ and applies to all privately-owned surface areas-lands, and subsurface waters used by individuals, families or communities, within the exterior- boundaries of the County, ~~excepting any surface lands~~ that lie ~~outside~~ inside of (1) the incorporated boundaries of a municipality, (2) ~~are any~~ tribal ~~and or~~ tribal trust lands owned by Santa Clara Pueblo, Ohkay Owingeh Pueblo, or the Jicarilla Apache Nation, or are owned by the People of the United States or the Citizens of the State of New Mexico. If the foregoing statement of jurisdictional applicability differs from that of any other County ordinance, the foregoing statement shall control for this Ordinance and for all other applicable County ordinances, (3) lands owned by the state of New Mexico; and (4) lands owned by the United States, including, but not limited to lands that are managed by the Forest Service and the Bureau of Land Management. Additionally, this Ordinance ~~does not apply~~ ies to the construction and operation of Oil or Gas Facilities where the mineral ~~right(s) interest~~ associated with such Facilities ~~are is owned partially or in their entirety~~ by the United States government, the State of New Mexico, or a Tribe or Pueblo, as long as the surface lands above said mineral interest are held under private ownership and are outside of the boundaries of an incorporated municipality. The rules and regulations of this ordinance are intended to supplement any categorically similar rules or regulations imposed by other regulatory agencies such as those of the United States and the State of New Mexico. The County of Rio Arriba reserves its right as a separate and local subdivision of the State of New Mexico representing the interests of the residents of Rio Arriba County to adopt and enforce ~~the rules and regulations~~ of this ordinance.

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1.4 ~~SCOPE~~

(A) This Ordinance is intended to address oil and gas exploration, drilling, production, transportation, abandonment and reclamation within the County.

(B) Nothing herein shall be deemed to waive the requirement of the Applicant to apply for, and receive all other applicable permits and authorizations from other regulatory agencies. Where variations exist between this Ordinance and any other statute, regulation, or ordinance of the County or another regulatory agency, the more stringent regulation shall apply.

1.5 PURPOSE

(A) This Ordinance is a zoning, and public nuisance prevention ordinance enacted to protect and promote the health, safety and general welfare of present and future residents of the County while at the same time providing for the responsible and economically viable extraction of oil and gas ~~minerals~~. This Ordinance ~~constitutes is~~ a police power, ~~public nuisance and~~ land use regulation designed to establish separate land uses and to control and prevent adverse effects and impacts resulting from oil and gas exploration, drilling, extraction, processing or transportation in the County on the following resources:, ~~environmental, traffic, cultural, historical, and~~ archeological, ~~transportation, and~~ emergency services.

~~(A) and preparedness, health and safety, and other standards to protect from any possible adverse public nuisance effects and impacts resulting from oil and gas exploration, drilling, extraction or transportation in the County.~~

(B) No oil or gas exploration or development shall take place in the County without a permit or prior authorization in accordance with the provisions of this Ordinance. Prior to authorizing any oil or gas ~~development~~ operation, the County shall require the Operator, owner of the mineral estate, ~~oil or gas~~ Lessee of the mineral estate, to apply for, and obtain the approvals, permits, and ~~or~~ authorizations required herein.

1.6 FINDINGS

All forms of exploration and development have the potential to negatively impact County resources and the environment through the introduction of contaminants and surface disturbance, which can lead to habitat degradation, fragmentation, and ~~loss of loss as well as or~~ degraded qualities of air, soil, and water. Considering oil and gas activities as a form of industrial development and a high-impact land use, with the potential for catastrophic and irreversible environmental damage, the County designs this Ordinance as a means to allow for the economically feasible ~~development-extraction~~ of oil and gas resources, which may benefits some sectors of the economy of the County, while ensuring that the minimum possible adverse impacts on the environment and on human health are avoided to the greatest extent possible, and fulfilling the County's ~~interest of duty to~~ protecting the health, safety and welfare of the County and its residents.

The ~~Board~~ Board of County Commissioners hereby finds, determines and declares, ~~and determines~~ that this Ordinance:

(A) promotes the health, safety, and welfare of the County, its residents, and its environment by regulating-preventing potential adverse ~~public nuisance~~ impacts and effects resulting from oil and gas the exploration, drilling, development, operation and transportation ~~of oil and gas~~;

(B) protects traditional communities and traditional lifestyles, as defined in the Rio Arriba County Comprehensive Plan, within the County;

(C) prevents the occurrence of adverse public nuisance effects and impacts resulting from the abandonment of oil and gas activities within the County;

(D) ~~p~~Protects the rights of Surface Property Owners;

(E) protects the priceless, unique, and fragile ecosystem of the County, including the following three Critical Management Areas: the Headwater lands, the Riparian Floodplain, and the Irrigated Agricultural Lands, which comprise Critical Management Area Zoning Overlay Districts, as identified and defined and regulated in within the Rio Arriba County Comprehensive Plan Design and Development Regulation System, the preservation of which areas is of significant value to the citizens of the County and State;

(F) allows for the responsible and economically feasible development of oil and gas ~~mineral~~ resources;

(G) protects the County's unique and irreplaceable scenic, historic, cultural, and archaeological, water and other natural resources, including water, air and soil;

(H) implements the goals and objectives of, and is otherwise in accordance with, the County's Comprehensive Plan and the Rio Chama Regional Water Plan; ~~and~~

(I) attains the foregoing objectives while also promoting the efficient and appropriate regulation of the oil and gas industry in the County;

(J) provides multiple - and generally immaterial - amendments to correct scrivener's errors and unclear language-usage of the ordinance, to improve its readability, clarity, simplicity and internal consistency; and

(K) provides various substantive amendments which help increase the Ordinance's protections of the environment, natural resources, landscape, culture, and residents of the County, while still allowing for the safe and responsible exploration and development of oil and gas resources.

(L) Appropriately regulates the controversial well stimulation method of slickwater hydraulic fracturing ("fracking"), which has become the subject of scrutiny in recent years due to potential environmental and public health hazards caused by the method. Given that the method requires significant amounts of water and uses toxic chemicals which could potentially contaminate the air, soil, groundwater and surface water, and given the vast amounts of toxic waste product created by the process, the impact on resources and the risks involved outweigh the economic and utility benefits that the County, and the people of our nation as a whole, would receive in the long-term by the potential increased oil or gas production.

(M) Reasonably strengthens and increases various important regulations, such as those for setback distances, among many others, to help ensure that the widespread environmental and human health impacts that have resulted from commercial oil and gas development in other areas of the United States do not occur in Rio Arriba County.

(N) Provides for the initial steps towards increasing the use of alternative energy systems that are sustainable, that use renewable resources, and that create minimal pollution.

(O) Provides a legal basis to preclude any attempt by a Corporation, the State of New Mexico, or the federal government, to undermine or overturn any provision of this Ordinance. Historically, corporations have been granted by other units or levels of government more legal powers than those possessed by local County governments and residents. The long-term sustainability of Rio Arriba County as a healthy ecosystem that can support residents for many generations to come cannot be safeguarded if Corporations possess legal powers in excess of those of the County and its residents. In order to counter this undemocratic situation, the Ordinance establishes powers of self-governance for the residents of the County and removes certain legal powers from Corporations seeking permits for oil or gas exploration or development within the County.

(P) Provides an amendment of the boundary between the two oil and gas overlay zoning districts to create a shared boundary that is more simplified and is easier to locate in relation to recorded real property boundaries. While the amended boundary generally follows the vicinity of the previous boundary, the changes do entail adding to the southeasterly portion of the Energy Resource Development District a region whose characteristics match those which define that district; the amended boundary also adds to the northwesterly portion of the Frontier District an area whose characteristics match those that define that district.

(Q) Provides for the removal of a separate permitting process for exploratory activities, since such activities, which include drilling, can have negative impacts similar to those caused by full-blown oil and gas development. This combining of exploratory activities and development activities into one application not only simplifies the application process, but recognizes these similar negative impacts and brings the entirety of the oil or gas activities under the same level of regulation.

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1.7 RIGHT TO SELF-GOVERNANCE

(A) All residents of Rio Arriba County possess the fundamental and inalienable right to a form of governance that recognizes that all political power is vested in and derived from the people, that all government of right originates with the people, is founded upon their will and is instituted solely for their good, and that corporate entities and their owners, directors and managers shall not enjoy any special privileges or powers under the law that would make community majorities subordinate to them.

(B) Rio Arriba County shall be the governing authority responsible to, and directed by, the residents of the County. Use of the County government by the sovereign people of the County to make laws shall not be construed to limit or surrender the sovereign authority or immunities of the people to the County government, which is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and irrevocable right to self-governance in the communities where they reside.

(C) Natural communities and ecosystems, including, but not limited to, agricultural lands, grazing lands, headwater lands, woodlands, scenic lands, historical lands, riparian lands, streams,

rivers, arroyos, acequias, aquifers, and other water systems, possess an inalienable and fundamental right to exist and flourish within Rio Arriba County. Residents of the County shall possess legal standing to protect those rights on behalf of those natural communities and ecosystems.

(D) All residents, natural communities and ecosystems in the County possess a fundamental and inalienable right to breathe clean air that is free of pollutants, toxins, and contaminants, to plant and grow in, and to be nourished from, healthy soil and the produce thereof that is free of pollutants, toxins, and contaminants, and to sustainably access, use, consume, and preserve water drawn from natural water sources, whether from the surface or subsurface, which provide water that is free of pollutants, toxins, and contaminants, as is necessary to sustain life within the County, and all such rights shall not be infringed, nor shall such rights be subject to threat of risk, whether that risk be of high probability or low.

(E) All residents, natural communities and ecosystems in the County possess a fundamental and inalienable right to energy sources that are sustainable and renewable, and that produce minimal pollution, in order to ensure the health and longevity of life in the County for many generations to come.

(F) In the event that any attempt is made to use other units and levels of government to preempt, amend, alter, or overturn this Section or portions thereof, this Ordinance or portions thereof, and all other County Ordinances or portions thereof, the Board of County Commissioners may hold public meetings to review the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government. Such consideration may include actions to separate the County from the other levels of government used to preempt, amend, alter or overturn the provisions of this Section, this Ordinance or other County Ordinances, or from other levels of government used to intimidate the people of Rio Arriba County or their elected officials.

(A) **1.8 APPLICANT RESPONSIBILITIES AND LEGAL STATUS OF OTHER GOVERNMENT PERMITS AND CORPORATIONS**

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(A) Corporations shall be deemed only as the personal property of their owners and shall not have the same rights as those granted to persons by the United States and New Mexico Constitutions, nor shall corporations be afforded the protections of the commerce or contracts clauses within the United States Constitution or corresponding sections of the New Mexico Constitution.

(B) Corporations shall not possess the authority or power to enforce against the people of Rio Arriba County related State or federal laws, whether or not those laws are explicitly preemptive of County laws, nor do Corporations possess the authority or power to challenge or overturn County ordinances adopted by the Board of County Commissioners.

(C) Any permit, license, contract or privilege, or portion thereof, issued by any State or federal agency, Commission or Board to any person or corporation, or any director, officer, owner, or manager of a corporation, where said permit, license, contract or privilege violates the

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provisions of this Ordinance or deprives any County resident, natural community or ecosystem of any rights, privileges, or immunities secured by this Section and by this Ordinance, the New Mexico Constitution, the United States Constitution, or any other law, shall be deemed invalid within the County.

(D) Any applicant or operator who pursues oil or gas exploration or development after receiving approval and a permit for such activity by the County shall be held responsible, culpable, and accountable for any damages caused by the oil or gas activity to natural resources such as water, soil and air, and for any damage caused to the health, safety and welfare of the people of the County and to downstream users of such natural resources that traverse or originate from the County. In the event that any such damages occur due to the oil or gas activity the applicant or operator shall be required to pay for compensation and replacement, in kind, and in perpetuity when appropriate, for any affected natural resources or persons. Such compensation shall be required for damages to land, crops, fences, buildings, water wells and aquifers, ponds, livestock, and any other property or natural resource.

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1.9 STATE AND FEDERAL PREEMPTION

This Ordinance ~~does not replace and is not less restrictive than, but~~ is supplementary to, ~~does not replace, enhances, and is consistent with, and is equally as -restrictive or is more restrictive than~~ the following Federal and State statutes:

- (A) the Surface Owners Protection Act, N.M.S.A. 1978, §§ 70-12-1 ~~et seq.;~~
- (B) the Oil and Gas Act, N.M.S.A. 1978, §§ 70-2-1 ~~et seq.;~~
- (C) the Water Quality Act, N.M.S.A. 1978, §§ 74-6-1 ~~et seq.;~~
- (D) the Solid Waste Act, N.M.S.A. 1978, §§ 74-9-1 ~~et seq.;~~
- (E) the Rangeland Protection Act, N.M.S.A. 1978, §§ 76-7B-1 ~~et seq.;~~
- (F) the Emergency Planning and Community Right To Know Act, 42 U.S.C.A. §§ 11001 ~~et seq.;~~
- (G) the New Mexico Public Health Act, N.M.S.A. 1978 §§ 24-1-1 ~~et seq.;~~
- (H) the Wildlife Conservation Act, N.M.S.A. 1978, §§ 17-2-37 ~~et seq.;~~
- (I) the Cultural Properties Act, N.M.S.A. 1978, §§ 18-6-1 ~~et seq.;~~
- (J) the National Historic Preservation Act, 16 U.S.C.A §§ 470 ~~et seq.;~~
- (K) the Uniform Trade Secret Act N.M.S.A. 1978, §§ 57-3A-1 ~~et seq.;~~
- (L) the Prehistoric and Historic Sites Act, N.M.S.A. 1978, §§18-8-1 ~~et seq.;~~
- ~~(L)~~ ~~et seq.;~~

- (M) the Cultural Properties Protection Act, N.M.S.A. 1978, §§ 18-6A-1 ~~et seq.; et seq.;~~
- (N) the Archaeological Resources Protection Act, 16 U.S.C.A. § 470 aa ~~et seq.; et seq.;~~ and
- (O) the Energy Policy Act, 42 U.S.C.A. § 6201 ~~et seq.; et seq.~~

ARTICLE 2 **DEFINITIONS**

2.1 RULES OF INTERPRETATION

(A) Words, phrases, and terms ~~defined-used~~ in this Ordinance shall be given the meanings set forth ~~in Section 2.2 below.~~ ~~Any words not defined herein shall be defined according to the statutory and common laws of the State of New Mexico, and if not defined therein, then as defined in the current adopted codes of the County, and if not defined therein, then in accordance with the most recent edition of Webster's Unabridged Dictionary in conjunction with the word's context in this Ordinance. If the meaning of any word remains unclear despite consultation with the foregoing sources, the Director of the Rio Arriba County Department of Planning and Zoning (the "Director") shall make a determination of the word's meaning.~~

~~(A) Words, phrases, and terms not defined in this Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning.~~

~~(B) In case of a difference in meaning or implication between the text of this Ordinance and any heading, drawing, table, figure, map or illustration, the meaning of the text shall control.~~

~~(B) The text shall control captions, titles, and maps.~~

(C) The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.

(D) Words used in the singular include the plural; words used in the plural include the singular.

(E) Words used in the present tense include the future tense; words used in the future tense include the present tense.

(F) Within this Ordinance, sections ~~prefaced-entitled~~ "purpose" and "findings" may be included. Each ~~purpose~~ statement ~~under such a heading~~ is intended as a ~~n-official~~ statement of legislative purpose or findings. ~~Therefore, the~~ "purpose" and "findings" statements are legislatively adopted, together with the ~~formal regulatory~~ text of the Ordinance. They are intended as a legal guide to the administration and interpretation of the Ordinance and shall be treated in the same manner as other aspects of legislative history. Additionally, such purposes and findings shall be considered part of the County's Comprehensive Plan.

(G) In their interpretation and application, the provisions of this Ordinance ~~shall be~~

deemed as the minimum required for the land uses described herein, and said land uses may be subject to greater requirements, restrictions or conditions as may be deemed appropriate for the particular and unique characteristics of any specific application, in accordance with the procedures and powers described in this Ordinance. ~~are considered minimal in nature.~~

(H) In computing any period of time prescribed or allowed by this ordinance, the terms “day” or “days” refer to calendar days, and therefore do not refer only to weekdays. The day of issuance of an approval, notice, or final application shall not be included in the counting of the number of days in the relevant time period associated therewith; rather, the designated period of time shall begin after said day. However, the Last Day counted in the computation of the time period shall be included as being part of the time period, unless the last day is a Saturday, Sunday or a holiday officially recognized by the County, State of New Mexico, or the federal government, in which event the period continues until the next day that is not a Saturday, Sunday, or holiday.

~~(H) In computing any period of time prescribed or allowed by this Ordinance, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is a Saturday, Sunday or holiday recognized by the State of New Mexico or the federal government, in which event the period runs until the next day that is not a Saturday, Sunday or such holiday.~~

2.2 DEFINITIONS

Words with specific defined meanings are as follows. As used in this Ordinance:

~~Abandonment.~~ *Abandoned.* The permanent ~~abandonment-discontinuation of use~~ of an Oil or Gas Facility, as established by filings of the Operator with the New Mexico Oil Conservation Division (“NMOCD”), from production records maintained by the NMOCD, and from information gathered by the Director. The County may presume abandonment of an Oil or Gas Facility based upon: (i) plugging and ~~abandonment-discontinuance of use~~ of an Oil or Gas Well pursuant to NMOCD Rule 19.15.25.1 N.M.A.C. *et. seq.*; (ii) any other evidence that the Oil or Gas Facility has been abandoned or plugged and abandoned as established by filings of the Operator with the NMOCD or other records maintained by the NMOCD; or (iii) non-use or lack of production for one year plus ninety (90) days, unless NMOCD records indicate the Oil or Gas Facility has not been abandoned. ~~An Oil or Gas Facility which has been temporarily abandoned as approved by in accordance with~~ the NMOCD or the United States Bureau of Land Management (“BLM”) is not considered permanently abandoned for purposes of this Ordinance.

~~Access Road or Drive~~ *Access Road or Drive* A private driveway, not open to the public, for use for ingress and egress to and from an oil or gas facility. ~~(Compare Road)~~

~~Adverse Effect or Impact.~~ *Adverse Effect or Impact.* A negative or detrimental change or a degradation ~~in of the quality of~~ the environment, air, soil, water, floodplains, floodways, watercourses, rivers, creeks, streams, wetlands, ponds, lakes, reservoirs, underground aquifers, irrigation ditches, water rights, hillsides, and steep slopes, wildlife and their habitats, or vegetation habitats, livestock, farmland and crops, air the visual environment, and water quality, public facilities

and services, transportation network and capacity, health, ~~and~~ safety, welfare, economy, quality of life, or ~~the~~ historical, architectural, archaeological, or other culturally significant of a resource.

Agricultural land. Any land used for the growing of agricultural crops, raised for the use and consumption of humans and animals, whether said lands are watered by irrigation or by any other means. (Compare Irrigated Agricultural Land)

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Applicant- The owner ~~or lessee~~ of a mineral estate who seeks permits to explore or develop oil or gas resources. ~~A oil and gas lessee, or duly designated appointed representative of the owner or lessee, who shall have who~~ ~~expresses~~ express written authority to act on the owner or lessee's behalf, may file an application on behalf of the applicant, although such representative is not considered the applicant for the purpose of this Ordinance. ~~of the owner or oil and gas Lessee. Consent shall be required from the legal owner of the mineral estate and any person, corporation, partnership, trust, business entity in the same ownership.~~

Best Management Practices- Practices commonly in use at a given time, subject to change based on technological advances or new data relevant to the effectiveness of the practices, that intend to prevent or provide for mitigation of specific impacts caused by that result from surface disturbances. ~~In the case of an~~ An application that explicitly agrees to use, the proposed use of specific Best Management Practices may facilitate reduced processing times and may limit the number of conditions of approval.

Board - The Board of County Commissioners of Rio Arriba County, State of New Mexico. The Board is the discretionary, legislative body of the County.

Closed-loop system. A fluid- or gas-management system, whereby oil, gas, and their associated by-products such as produced water, drilling fluids, work-over fluids, and similar, are directly extracted for storage or transport into above-ground, completely-sealed tanks or pipelines, without coming into contact with the outside environment, as opposed to being poured into open-air, in-ground pits.

Co-location - The placement of two or more well bores on a single well pad as described on a plat prepared by a licensed land surveyor.

Comprehensive Plan- The Rio Arriba County Comprehensive Plan adopted by the Board, as amended from time to time.

Core Testing Exploratory drilling in which the subsurface formations are extracted in maintained order for the purpose of analyzing the contents, extents, and nature of the formations to determine if oil, gas, and other hydrocarbons are present and whether the extraction of the same is economically viable.

Corporation Personal property of an individual or group of individuals engaged in an enterprise for profit or not-for-profit, whether as a corporation (of any type), partnership, trust,

joint venture, limited liability company (LLC), or any other such entity recognized by other branches, units, or levels of government or law.

County- Rio Arriba County, New Mexico- Depending on the specific context of any section of this Ordinance where the term is used, the County may also include the Director of the Planning and Zoning Department, the Director's agents and staff authorized to make decisions on the Director's behalf, the Board of County Commissioners, and any other relevant department of the County.

Critical Management Area Zoning Overlay Districts- Areas of the County, as mapped and defined in the Comprehensive Plan and mapped by County Ordinance, which contain unique and essential resources and habitat, and which require higher standards for development and impact mitigation.

Cumulative Impact- The impact on the environment and on communities which result from ~~the incremental, long-term, continuous action combined with other past, present, and reasonably foreseeable future actions.~~ impact of the action when added to other past, present, and reasonably foreseeable future actions ~~regardless of what group or person undertakes such other actions.~~ Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Decibel (dB)- A unit of measurement used to measure the intensity of sound and noise. ~~One decibel and~~ is equal to ten (10) times the logarithm to the base ten (10) of the ratio of the measured sound pressure squared to a reference pressure of twenty (20) micropascals.

Derrick- Any portable framework, tower, mast, and/or similar above-ground structure ~~which is~~ required or used in connection with when drilling or re-working ~~an Oil or Gas~~ Well for the production of oil or gas.

Design and Performance Standards- The design and performance standards set forth in Article 5 and Article 11 of this Ordinance.

Development- Any human-made physical change to the surface or subsurface that facilitates the extraction of oil or gas. ~~in improved or unimproved sub-surface mineral and surface estates.~~ Development includes, but is not limited to: buildings ~~and~~ other structures; the acts of oil and gas drilling, dredging, filling, ~~extraction~~ extracting ~~and transportation~~ transporting of oil and gas; grading, paving, diking, berming, excavating ~~on~~, exploring ation, ~~and~~ storage ~~storing~~ of equipment ~~and~~ materials, whether in structures, ponds, containers, land fills or other detention facilities. For the purpose of this Ordinance, in the event that the term Exploratory Activities or its related forms are omitted from any provision that includes the term Development, it shall be understood that Exploratory Activities is also included in that provision.

Director- The Director of the Rio Arriba Planning and Zoning Department

or any person or persons authorized formally or informally by the Director to act on the Director's behalf, assigned or delegated to perform some portion of the functions exercised by the Director.

Directional drilling Method of drilling whereby the well, or portion or branch thereof, runs in a non-vertical direction, so that oil and gas may be extracted from portions of subsurface formations that are horizontally distant from the surface well pad site, thereby allowing greater resource recovery from a single, surface well pad site, and thereby further diminishing surface disturbance.

Drilling- ~~Creating a bore for Digging or boring a new Oil or Gas Well~~ for the purpose of ~~exploring for, developing, or extracting or~~ producing oil, gas, or other hydrocarbons, ~~or for the purpose of injecting gas, water, or any other fluid or substance into the earth.~~ (Compare *Core testing*)

Easement- ~~Authorization by Recorded permission to use someone's a property for a specified purpose, whether temporarily or in perpetuity. owner for another to use the owner's property for a specified purpose.~~

Endangered Species- Plant or animal species defined and identified as endangered by the United States pursuant to the Endangered Species Act, 16 U.S.C. § 1531 *et. seq.*, and by the New Mexico Department of Game and Fish pursuant to the New Mexico Wildlife Conservation Act, N.M.S.A. 1978, § 17-2-37 *et. seq.*, at the time an application is submitted.

Erosion- The process by which land surface materials, such as rock ~~and~~ soil, are worn away or removed.

Existing Structure- A structure whose construction is that is built and completed as at the time of or before the effective date of this ~~code~~ Ordinance.

Exploratory Activities- ~~All a~~ Activities whose purpose is to determine the existence, location, extents, and economical feasibility of extraction of oil and gas resources. for which an ~~exploratory~~ permit is required, including, but not limited to, geophysical surveys, seismic surveys, core testing, gravity surveys, magnetic surveys, and any other exploratory activity that may cause surface disturbance. ~~An exploratory~~ No permit ~~will shall not~~ be required for aerial surveys, mapping activities, and any other exploratory activities that do not result in surface disturbance. ~~Exploratory drilling will require approval of a development permit within the Energy Resource Development District, and a special use permit within the Frontier District.~~

Flood or Flooding- A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of run-off of surface waters from any source.

Floodplain- Any land area susceptible to being inundated by water from any source. See *Flood or Flooding* and *100-year floodplain*.

Floodway- A channel, river, stream, creek or other watercourse and the adjacent land areas ~~that must be reserved in order~~required to discharge the base flood; the 100-year floodplain.

Fresh Water- Surface and ground waters that are required to be protected, including: the water in lakes and playas, regardless of quality, unless the water exceeds 10,000 mg/l Total Dissolved Solids (“TDS”) and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water; the surface waters of streams regardless of the water quality ~~within a given reach~~, and underground waters containing 104,000 mg/l or less of TDS, regardless of whether said waters are currently used, are anticipated to be used in the future, or are not anticipated for use in the future. -except for which, after notice and hearing by the OCD, it is found there is no present or reasonably foreseeable beneficial use that contamination of such waters would impair.

Gas- Any gas or fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, ~~and/or~~ the gaseous components or vapors occurring in or derived from petroleum or natural gas, or any gaseous derivatives of ~~those oil and gas~~ extraction processes, such as carbon dioxide; whenever “gas” is used in this Ordinance it includes “natural gas” and ~~or~~ “methane.”

Habitat- The natural living place or environment of a species of plant or animal

Habitat Degradation- The condition where the natural, pre-development conditions necessary for the survival of plants and animals are degraded in quality or function due to the impacts associated with a development.

Habitat Fragmentation- The condition ~~where-in which~~ the introduction of new development causes formerly contiguous landscapes to become fragmented and isolated. Habitat fragmentation causes increased isolation of populations or species, which leads to decreased genetic diversity and increased potential for ~~extirpation-the destruction~~ of localized populations, ~~or~~ even to the point of extinction. Habitat fragmentation alters vegetative composition and cover, and the type and quality of the food base. Further more, habitat fragmentation changes microclimates by altering temperature and moisture regimes and changing nutrient and energy flows.

Habitat Loss- The condition where a development or action degrades existing environmental conditions necessary for the survival of plants and animals to the point where that environment is no longer hospitable to the plant and animal life existing there prior to development.

Historical, Cultural, or Archaeological Resource- Historic Sites, Cultural Sites, Archeological Sites, Artifacts, and Landmarks that are designated (or eligible for designation) by the State of New Mexico Historic Preservation Division, or cultural and historical resources as identified ~~with-in the~~ Rio Arriba County. ~~TA list, called the~~ Official Register of Cultural Properties; and ~~the list of~~ the National Register for Historic Places; are on file with the Director.

Hydraulic Fracturing or Fracking Method of gas or oil well stimulation whereby a substance is injected at high pressures into oil- or gas-bearing subsurface rock formations, such as shale, in order to create fractures in the formations, thereby allowing the oil or gas to be released from the formations and more easily extracted.

Injection Well: A ~~NMOCD-permitted~~ well through which fluids or gasses are injected into a subsurface formation to increase reservoir pressure and to displace oil (e.g., during oil enhancement or water flooding operations), ~~for disposal of produced water, for storage purposes, or any other NMOCD permitted purpose.~~

Interim Reclamation: The activity of reclaiming and restoring surface areas disturbed ~~within the Well Site~~ during ~~previous earlier~~ phases of Oil or Gas development, which will no longer be utilized for future phases of development.

In the County, within the County: ~~Areas-Lands whose surface area and air-space, and whose subsurface water resources are under private ownership or use, or under community ownership or use, such as through a Mutual Domestic Water Association, within the exterior boundaries of the County, excepting land but not within the limits of any incorporated municipality, land under State or Federal ownership, or any tribal and/or tribal trust lands, lands owned by the state of New Mexico, and lands owned by the United States or lands where the mineral rights associated with such surface property are owned partially, or in their entirety, by the United States.~~

Irrigated Agricultural Land: Lands which we are either listed as “Irrigated Agricultural Land” by the Rio Arriba County Assessor by at the time of the effective date of Rio Arriba County Land Subdivision Regulations Ordinance, or lands identified by hydrographic survey ~~which will describe if the said land has been as being used~~ historically ~~used~~ for irrigated agriculture, or, those lands which are shown to be irrigated in the records of the associated acequia (ditch) commission. (Compare Agricultural Land)

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Lessee: A person, corporation or other legally recognized entity-party who ~~that~~ has entered into a lease agreement with the been granted an oil or gas lease from the Owner of a mineral estate to explore for or produce oil and gas from said estate, or who has ~~received~~ an been assigned assignment of all or a portion of a previously granted oil or gas lease. For the purposes of this Ordinance the Lessee may at times be ~~is~~ used interchangeably with mineral ~~lease-estate~~ owner or oil and gas operator.

Level of Service: Measure used to determine the effectiveness of transportation infrastructure. ~~As~~ defined by the American Association of State Highway Transportation Officials (AASHTO) Regulations.

Lot: A tract, parcel, or a portion of a subdivision ~~or other parcel~~ of land intended as an individual unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for development.

Lot Line: The boundary of a recorded lot.

Mineral Rights-Interest (or Mineral Estate or Mineral Rights) Owner- The record owner of the fee sub-surface mineral estate, a contract purchaser holding equitable title, an oil and gas Lessee, or a ~~vendee-buyer-in-~~possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in an Oil or Gas Lease.

New Mexico Oil Conservation Division (NMOCD)- ~~The Oil Conservation~~ Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico that enforces State regulations of oil and gas exploration and development.

Nuisance- As defined in the Rio Arriba County Design and Development Regulation System Ordinance ~~2009-09.~~

Oil- A produced simple or complex mixture of hydrocarbons, in a liquid state at ~~standard-normal~~ pressure and temperature, which can be refined to yield gasoline, kerosene, diesel fuel, and various other fuel products.

Oil or Gas Facility or Facilities- A ~~new~~ well or wells and the surrounding Well Site and well pad, constructed and operated to explore for, ~~or produce~~, process and transport crude oil and/or gas, ~~and including, but not being limited to, the following:~~ auxiliary and associated equipment and facilities, such as derricks, separators; dehydrators; ~~pumpsing units;~~ tank batteries; tanks; metering stations and equipment; ~~any~~ equipment for the re-working of an existing well bore; workover rigs; compressors ~~stations~~ and associated engines, motors, facilities and equipment; ~~water or fluid injection stations and associated facilities and equipment;~~ storage or construction staging yards; gathering systems and associated facilities and equipment, collection lines, drip stations, vent stations, pigging facilities, ~~chemical injection station;~~ transfer pump stations and valve boxes; any other structure, building or facility, temporary or permanent, mobile or stationary, associated with or used in connection with an new Oil or Gas Well or the installation, construction or operation of the Oil or Gas well; pipelines for transporting oil, gas or water to or from well sites from or to centralized processing or storage facilities; an oil or gas treatment or processing facility; and the roads or driveways used for ingress and egress to and from an ~~new~~ Oil or Gas Well or surrounding Well Site. For the purpose of this Ordinance, an Exploration site, Facility Site and a Well Site may be deemed one and the same by the Director in the event that one term or the other is missing from any relevant provision contained herein.

Oil or Gas Well- Any hole or holes, bore or bores, encased or not, dug or drilled from the ground surface to and through any subsurface sand, rock formation, or strata, ~~or depth of varying depth, diameter and direction,~~ for the purpose of exploring for, producing, and recovering any oil, gas, ~~liquid, or other~~ hydrocarbon, or any combination thereof.

One hundred (100)- year Floodplain- ~~The land in the floodplain within a community~~ subject to a one (1) percent or greater chance of flooding in any given year, ~~and and the area designated as being within Zone A, AE, All, or AO a Federal Emergency Management Agency Zone A, AE, All, or AO on the Flood Insurance Rate Maps issued by Federal Emergency Management Agency (FEMA).~~

Onsite Visit: The meeting conducted at the proposed Oil or Gas Well Site before consideration of a decision ~~for on any development permit, exploratory permit, or special use permit.~~ The purpose of the Onsite Visit for the County is to verify information presented on an application, and to work with the Surface Property Owner and the Applicant to identify site-specific concerns and potential environmental impacts associated with the proposed development, and to discuss possible conditions of approval and Best Management Practices to be used in mitigating the identified impacts. The Onsite Visit shall be arranged by the Applicant and shall include the County, Surface Property Owner(s), and the Applicant.

Operator: Any person or entity, including but not limited to the mineral estate owner, Lessee or ~~operating rights owners~~ subcontractor to the same, who has stated in writing to the Director that it is responsible as owner, or under the terms and conditions of a lease or contract, for the oil and gas operations conducted on the ~~leased~~ lands described in the application, or a portion thereof.

Person: Any natural, individual person human being. For the purpose of this Ordinance the term does not include a corporation, partnership, trust, entity, organization, joint venture, LLC, association (including homeowners' or neighborhood associations), trust, or any other entity even if recognized as a person by other branches, units, or levels of law government or law.

Pit: A ~~NMOCD permitted~~ surface or subsurface impoundment, man-made or natural depression, or diked area on an excavated earthen the surface used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells, such as drilling fluid, mud, produced water, etc. that is constructed with the conditions and for the duration provided in its permit. This does not include berms constructed around tanks or other structures or facilities for the purpose of safety, secondary containment, and storm water or ~~run-off on~~ control.

Police Power: Inherent, delegated, or authorized legislative power for purposes of establishing and enforcing regulations to secure the health, safety, and general welfare and to prevent public nuisances.

Pollution: The contamination or other degradation of the physical, chemical or biological properties of land, water or air, including a change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance onto the land or into the water or air that will, or is likely to, create a nuisance or render such land, water or air harmful, detrimental, toxic or injurious to the public health, safety or welfare, or harmful, detrimental, toxic or injurious to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wildlife, birds, fish or other aquatic life.

Produced Water: ~~Any fluid or water produced in conjunction with the production of oil or gas, the collection and disposal of which is regulated and permitted by the NMOCD.~~

Projected Traffic: The traffic that is projected-anticipated to develop in the future on an existing or proposed road.

Public Hearing- A proceeding preceded by published notice and ~~actual-direct~~ notice to certain persons, and at which certain persons and the general public, including the Applicant, may present oral comments or documentation in favor of or opposed to an application. In a quasi-judicial or administrative hearing, witnesses are sworn in and are subject to cross-examination.

Reclamation- The employment, during and after an oil or gas operation, of procedures ~~reasonably~~ designed to minimize or reverse, as much as practicable, the surface disturbance ~~caused by~~ from the Oil or Gas Facility, and to provide for the rehabilitation of affected land through the use of any number of the following techniques: re-contouring of the land, reseeded, stabilization of the soil, and any other measures deemed, by the Director ~~as being~~, appropriate ~~for~~ the subsequent beneficial use of such reclaimed lands.

Road An improved street, roadway or highway, owned by the public trust, maintained and regulated by the County, State or Federal government, and open to the public for use for travel and transportation. (Compare Access Road).

Sensitive Species- Plant or animal species defined and identified as sensitive by the United States pursuant to the Endangered Species Act, 16 U.S.C. § 1531 ~~et. seq.~~, and by the New Mexico Department of Game and Fish pursuant to the New Mexico Wildlife Conservation Act, N.M.S.A. 1978, § 17-2-37 ~~et. seq.~~, at the time an application is submitted.

Slope- The ratio of elevation change to horizontal distance, expressed as a percentage. ~~It is~~ computed by dividing the vertical distance by the horizontal distance and multiplying the ratio by one hundred (100).

Solid Waste Garbage, trash, refuse, sludge from an oil or gas operation, discarded material and any other waste by-product caused from oil and gas activities, regardless of whether its form is solid, liquid, semi-solid or gaseous.

Spacing The number of wells permitted per a given subsurface area of a mineral estate.

~~Substantial Modification. Any modification to an Oil or Gas Well Site or to an Oil or Gas Facility beyond normal operation, reworking, recompleting, monitoring and maintaining that results in an increase in the size or area of the surface disturbance for which approval was granted under this Ordinance.~~

Steep Slope A slope equal to or exceeding 8%.

Storage Tank (or Tank)- An enclosed structure, typically cylindrical in shape, made of impervious material such as steel. ~~Any tank~~, excluding sumps and pressurized pipeline drip traps, used for the storage of condensate and crude oil or other liquids produced by ~~and~~ or used in conjunction with any oil or gas productions. ~~There are bA below-grade-ground tank has an interior floor that is below any portion of the s where a portion of the tank's sidewalls is below the surrounding ground surface's elevation., and aAn above-ground storage tank's interior floors where the tank is located above or at the surrounding ground surface's elevation and is~~

surrounded by protective berms.

Structure- Anything constructed or built, typically from ~~or~~ a combination of individual pieces or materials that, when combined, form an object-construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

Substantial Modification Any modification to an Oil or Gas Well Site or to an Oil or Gas Facility beyond normal operation, reworking, recompleting, monitoring and maintaining, that results in an increase in the size or area of the surface disturbance for which approval was granted under this Ordinance, or increase in facility equipment, or increase of potential environmental impact in such areas as noise, air, water, and the visual landscape.

Surface Disturbance- Any activity that disturbs the surface of the land (a) as a result of exploration for, drilling for, and production of oil or gas or (b) as a result of the construction, development, operation, or abandonment and plugging of an Oil or Gas Facility.

Surface Property Owner- A person ~~that who~~ holds legal or equitable title ~~;~~ as shown in the records of the County Clerk ~~-~~ to the surface of the real property on which oil and gas operations are to take place.

Surface Use Agreement- An agreement between an Operator and Surface Property Owner specifying the rights and obligations of the Surface Property Owner and the Operator concerning oil or gas operations.

Surface Water Features- Any geographic surface feature which contains water at least seasonally, including but not limited to; perennial, seasonal (intermittent), or ephemeral watercourses, streams, rivers, springs, wetlands, ponds, lakes, playas, creeks, arroyos, acequias, irrigation ditches, stock ponds and any other surface water impoundments.

Tenant- As defined in the ~~the~~ Surface Owners Protection Act, N.M.S.A. 1978, §§ 70-12-1 ~~et- s~~Seq.; a person who occupies land or premises belonging to another, in subordination to the owner's title and with the owner's assent, express or implied.

Threatened Species- Plant or animal species defined and identified as threatened by the United States pursuant to the Endangered Species Act, 16 U.S.C. § 1531 ~~et- seq.~~, and by the New Mexico Department of Game and Fish pursuant to the New Mexico Wildlife Conservation Act, N.M.S.A. 1978, § 17-2-37 ~~et- seq.~~, at the time an application is submitted.

Watercourse- Any river, creek, arroyo, canyon, draw or wash or other channel having definite banks and bed with visible evidence of the occasional flow of water.

Water Well Any hole or holes, bore or bores, dug or drilled from the ground surface to

and through any subsurface sand, rock formation, or strata, of varying depth, diameter and direction, for the purpose of exploring for, producing, and recovering water for human, animal, agricultural, or other domestic or commercial use. A Water Well may be for the private use of an individual or family, shared use between several individuals or families on abutting or neighboring lots, or for community use such as for members of a Mutual Domestic Water Consumers Association. The aquifer which supplies water into the well is included in the definition of a Water Well.

Well Site or Well Pad Site- That portion of the surface of land used for the drilling, development, production, operation, abandonment, and plugging of an Oil or Gas Well or co-located oil and gas wells, including, but not limited to, the area of land in which all equipment, excavations, and facilities used for oil and gas operations are located. A Well Site shall include, at a minimum, the area of surface disturbance associated with such uses but excluding the area of surface disturbance necessitated for the construction and use of roads, driveways to and from the Well Site. -For the purpose of this Ordinance, a Well Site and an Oil or Gas Facility may be deemed one and the same by the Director in the event that one term or the other is missing from any relevant provision contained herein.

Wetland- Land that has a predominance of hydric soil, is inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and under normal circumstances supports a prevalence of that vegetation. Wetlands include, but are not limited to, all wetlands as defined and mapped by the United States Army Corps of Engineers.

Workover- An operation on a producing Oil or Gas Well, or on a Well capable of commercial production, to restore or increase production. A workover is typically performed for routine maintenance or repair of down-hole equipment.

ARTICLE 3

ENERGY RESOURCE DEVELOPMENT DISTRICT: CREATION OF DISTRICT AND GENERAL APPROVAL REQUIREMENTS.

3.1 FINDINGS

—The Board hereby finds, declares and determines as follows:

~~(A)~~ (A) The County includes portions of the San Juan Basin, a geologic basin with uniform and explored geology that contains oil ~~reserves~~ reserves and large natural gas reserves which have been in development for more than fifty years.

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3.2 (B) More than one third of the San Juan Basin lies within the County, and there are currently more than 11,000 Oil and Gas Wells in the County's portion of the San Juan Basin.

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The presence of oil and gas development within that portion of the San Juan Basin that lies within the County pre-dates the County's land-use regulations.

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(A) (C) The County recognizes the state and national interest in the San Juan Basin as a major energy producing region, one which has the potential to provides revenue to the State of New Mexico.

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3.3 (D) benefit the local economies of the County's rural communities.

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Within that portion of the San Juan Basin that lies within the County, there is a need to balance the regulation of oil and gas development, so that it allows for the protection of the County's unique and invaluable cultural and natural resources, while still promoting the responsible and economically feasible development of oil and gas resources which significantly contribute to the rural economies of the County, as further explained in the Comprehensive Plan. In order to attain such balance, there is created by this Ordinance the Energy Resource Development District overlay zone, the boundaries for which are described shown on in Exhibit A attached hereto. Exploratory oil or gas activities within the Energy Resource Development District, which do not involve drilling, shall be subject to an exploratory permit approval process and subsequent notice to proceed, as set forth in this Ordinance and subject to those regulations also set forth in this Ordinance. Oil and gas exploration and development within the Energy Resource Development District, which includes drilling activities or the construction of Oil or Gas Facilities, shall be subject to an administratively approved reviewed development Conditional Use Permit process application, as set forth in this Ordinance, and subject to all pertinent those regulations also set forth in this Ordinance.

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3.4 (E) -Because the lands within this portion of the County are already densely developed with oil and gas well sites, and because of new technologies now available which allow drilling multiple wells at different subsurface angles and directions from one surface well pad site, in order to lessen further degradation of surface lands within this portion of the County, the amended limitations on development within this District are reasonable and appropriate, and still allow for the drilling of additional wells when desired by the industry.

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3.5 3.2 CREATION OF DISTRICT

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There is hereby created the Energy Resources Development District, the boundaries for which are shown, as amended, on Exhibit A attached hereto.

3.6 3.3 AREA AND BOUNDARY OF DISTRICT

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(A) The area of the County included within the Energy Resource Development District overlay zone is fully described shown, as amended, on Exhibit A attached hereto, which exhibit is

incorporated by this reference. The Official Zoning Map of the County is hereby amended to include and reflect the designation and boundary of the Energy Resource Development District overlay zone.

(B) Where the Energy Resource Development District boundary line intersects fee surface property, the entire fee surface property shall be considered within the Energy Resource Development District.

3-73.4 DEVELOPMENT PERMITTED AND PROHIBITED WITHIN THE ENERGY RESOURCE DEVELOPMENT DISTRICT

(A) No Oil or Gas Facility, including exploratory activities and the drilling of a new well, shall be constructed or operated ~~anywhere in the County, within the Energy Resource Development District~~, unless a development conditional use permit for such Oil or Gas Facility has been approved administratively by the Director in accordance with this Ordinance.

(A)(B) No new surface disturbance outside the exterior boundaries of existing Oil and Gas Facilities shall be permitted within this district, unless the proposed site complies with the setbacks and other criteria required by this ordinance. This shall not be construed as prohibiting an applicant from seeking or obtaining a permit to drill a new Directional Well from, or to add new facilities within the existing footprint of, an existing surface oil or gas well pad site.

(C) No exploratory activities related to oil or gas development shall be permitted anywhere within County unless an exploratory permit for such activities has been approved by the Director in accordance with this Ordinance. No Oil or Gas Facility shall be constructed on land with a slope gradient of eight (8) percent or greater.

(D) No Oil or Gas Facility shall be permitted within the Irrigated Agricultural Overlay Zoning District (IAOZD), and the Riparian Floodplain Overlay Zoning District (RFOZD), two of the County's Critical Management Areas which contain environmentally sensitive land, resources, and uses, as those districts are defined and mapped in the County's Design and Development Regulation System.

(E) No Oil or Gas Facility shall be permitted within Headwaters Overlay Zoning District (HOZD), one of the County's Critical Management Areas which contains environmentally sensitive land and resources, as that district is defined and mapped in the County's Design and Development Regulation System Ordinance, unless said facility complies with the requirements set forth in the County's Design and Development Regulation System Ordinance, in addition to the requirements set forth in this Oil and Gas Ordinance.

(F) No Oil or Gas Facility shall be permitted within a floodplain as mapped and designated by the Federal Emergency Management Agency (FEMA).

(G) No Oil or Gas Facility shall be permitted on Agricultural Land used for the growing of agricultural crops raised for the use and consumption of humans and animals, whether said lands are watered by irrigation or by any other means.

(H) No Oil or Gas Facility shall be permitted to any applicant that has current outstanding

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violations at an existing facility under its ownership or management anywhere in the United States or that has a work history indicating excessive violations or accidents.

~~(D)~~(I) No or Gas Facility shall be permitted to any applicant that has any land under its ownership or management that is awaiting required reclamation.

3-83.5 ONSITE VISIT

(A) The County ~~retains-reserves~~ the right to request or participate in an Onsite Visit prior to the consideration of a ~~development~~ permit application. Upon submission of the application, the Director shall determine whether or not an Onsite Visit is necessary based on the site specific information presented in the application.

(B) The County ~~retains-reserves~~ the right to request and participate in an Onsite Visit prior to the consideration of an application for a ~~n-exploratory~~ permit. Upon submission of the application, the Director shall determine whether or not an Onsite Visit is necessary based on the site specific information presented in the application.

(C) Where an Onsite Visit shall be required, the Director shall provide the Applicant with a written request for an Onsite Visit.

~~(D)~~ Prior to the Onsite Visit for a ~~development~~ permit application, the Operator shall flag all proposed access roads along the center line, and stake, with wooden staking, the proposed Oil or Gas Well or Facility Site, ~~two (2) four (4) locations where photographs have been taken from the four, two cardinal directions, with each location being two-hundred (200) feet directional reference stakes~~ from the Well Site, the exterior dimensions of the proposed drill pad, proposed cuts and fills, and the outer limits of the area proposed to be disturbed.

~~(D)~~(E) In the event that the Director determines that an Onsite Visit is required, the applicant shall pay to the County a fee of five hundred dollars (\$ 500.00) prior to the Onsite Visit.

3-93.6 REVIEW FOR ADMINISTRATIVE COMPLETENESS OF APPLICATION

~~(A)~~ The County shall review submitted applications for completeness within:

~~(B)~~(A) ~~ten~~ The County shall review submitted applications for completeness within ten (10) days of receipt ~~for a development permit of the application, and~~

~~(1)~~ ten (10) days of receipt for exploratory permits.

~~(C)~~(B) If an application for a permit is deemed incomplete, the County shall provide a written determination to the Applicant explaining why the application is incomplete, and the manner in which the application can be made complete.

~~(D)~~(C) Applicants have thirty (30) days to submit the additional required materials unless the County agrees in writing to a longer time period.

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~~(E)~~(D) If the required materials are not submitted within the given time period, the application shall be deemed withdrawn and the Applicant ~~will~~shall not be entitled to a refund of their application fees.

~~(F)~~(E) Upon submission of the required ~~submittals~~documents, the application shall be reviewed again for completeness according to ~~the appropriate~~review schedule described above in this section, and if still deemed incomplete shall be further subject to the aforementioned procedure and schedule until such time as the application is deemed complete. ~~the Applicant shall have another opportunity to complete the application according to subsections A through D of this section.~~

~~(G)~~(F) After an application is complete, the County may nevertheless request additional information or studies if the Director determines that new or additional information is required in order to assess the application for compliance with this Ordinance or if ~~the applicant makes there is a substantial changes~~into the proposal since the time the application was deemed complete, proposed development that is the subject of a pending application.

3.10 REVIEW PROCESS AND CRITERIA FOR EXPLORATORY PERMITS

~~(A)~~ Completed applications for exploratory permits shall be reviewed by the Director, within thirty (30) days, for compliance with the design and performance standards of this Ordinance, compatibility with existing land use, suitability of the land to contain the proposed development, and the proposed Best Management Practices and mitigation measures. In making a decision, the Director may also consider the needs or preferences of the Surface Property Owner. Any decision by the Director denying an application for an exploratory permit shall be in writing, and the Applicant shall be given the opportunity to cure or correct, if possible, those grounds given as the basis for denial. In the event that the Applicant cannot cure or correct the grounds of denial within the time frame established by the Director in the initial letter of denial, a final decision indicating denial shall be provided to the Applicant upon the expiration of that period.

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3.11.7 REVIEW PROCESS AND CRITERIA FOR DEVELOPMENT PERMITS

(A) Completed applications for ~~development~~ permits for Oil or Gas Exploration or Facilities located within the Energy Resources Development District shall be reviewed by the Director within thirty (30) days for compatibility with existing land uses, ~~and~~ compliance with the design and performance standards of this Ordinance, suitability of the land to contain the proposed development, and whether the proposed Best Management Practices and mitigation measures are adequate. In making a decision, the Director may also consider the needs or preferences of the Surface Property Owner and adjacent or otherwise affected property owners.

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(B) Any decision by the Director denying an application for a ~~development~~ permit shall be in writing, and the Applicant shall be given the opportunity to cure or correct, if possible, those grounds given as the basis for denial. In the event that the Applicant cannot cure or correct the grounds of denial within the time frame established by the Director in the initial letter of denial, a final decision indicating denial shall be provided to the Applicant upon the expiration of that length of time period.

3-123.8 CONSULTANTS

If the Director determines that the application for a ~~development~~ permit may present a negative impact on archeological, cultural, or historical resources, ground or surface water quality and quantity, air quality, soil quality, or any other aspect of the natural, built or improved the environment, the Director may, at the expense of the Applicant, hire experts to review an application or to evaluate specific technical issues related to ~~archeological resources, surface or ground water quality or the environment.~~ the aforementioned resources. If the Director determines that the County should retain such experts, the Director shall notify the Applicant and the Applicant shall have the opportunity to to provide recommendations of shall select an independent contractor who is expert in the relevant fields to the County. The Applicant shall pay to the County an initial security retainer fee of five thousand dollars (\$5,000.00) by ~~make a company check, cash, certified check or bank check, or letter of credit, deposit in an amount to be determined by the Director for each application submitted,~~ to cover all of the County's expenses incurred to engage such consultants and experts as the Director considers necessary and appropriate. Any amount of the retainer fee not ultimately required shall be returned to the applicant. Any additional amount, beyond the amount of the retainer fee that may be required to cover the costs of the consultants shall be paid by the applicant prior to the completion of the consultant's assessment.

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3-133.9 REFERRALS

The Director may refer an application to other government agencies, cities, counties or entities having a statutory or regulatory interest in the matter, or who are otherwise affected by the application, for review and comment. The application review process shall not necessarily be delayed pending review or commentary from a referral agency if that agency does not respond in a timely manner, as determined by the Director. (ies).

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3-143.10 OTHER AUTHORIZATIONS

The Applicant ~~may shall~~ proceed concurrently with other necessary regulatory approvals, with such as those reviewed by the NMOCD, BLM and other applicable regulatory agencies, ~~concurrently with that the same time that its filing of an~~ application for a ~~development~~ permit with the County is under review. In no event shall the County conduct its final review, hold public hearings, or issue a decision on an application until all other required applications with other regulatory agencies have been filed, and the County has been provided with copies of said applications.

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3-153.11 AUTHORITY

~~(A) The Director is granted the authority to approve and grant an exploratory permit and notice to proceed in accordance with the requirements and standards of this Ordinance.~~

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~~(B) The Director is granted the authority to impose any conditions in the approval and granting of an exploratory permit as necessary to carry out the intent and purpose, and to implement the requirements and standards, of this Ordinance, to protect the public health and welfare, and to ensure that any exploratory permit, when implemented, complies with the criteria for the granting of an exploratory permit.~~

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~~(C)~~(A) The Director is granted the authority to approve and grant, or to deny a development permit in accordance with the requirements and standards of this Ordinance.

(B) The Director is granted the authority to impose any conditions and additional fees in the granting of any ~~development~~ permit as deemed as necessary to carry out the intent and purpose, and to implement the requirements and standards of this Ordinance, to protect the public health, safety and welfare, and to ensure that any ~~development~~ permit, when implemented, complies with the criteria for the granting of a ~~development~~ permit, and complies with any mitigation measures s required or approved with a ~~development~~ permit.

~~(D)~~(C) Prior to the issuance of any permit, a County Business License shall be obtained, in accordance with all applicable provisions for such licenses as enumerated in the most current amendment to Rio Arriba County Design & Development Regulation System, by each and every businesses involved in carrying out the work associated with an oil and gas exploratory or development permit, including but not limited to the Mineral Estate Owner or Lessee, oil and gas facilities Operator, and all individual businesses subcontracted by the Owner or Operator for the various functions and phases of the development or exploratory operation, including the application phase of the project.. The fee for the business license shall not be that which is enumerated in the Rio Arriba County Design & Development Regulation System, but shall be in the amount of \$1,000. A private surface property owner who does not own the mineral estate under its surface property shall not be required to pay for or obtain a business license for oil or gas development on its surface lands.

3-163.12 EFFECT OF APPROVALS

~~(A)~~ When an exploratory permit has been granted for oil or gas exploration activities that do not include drilling, within the County, in accordance with this Ordinance, such exploratory permit, along with any other required County permits and any conditions associated therewith, shall constitute sufficient authority for the commencement of the approved exploratory activity.

When a ~~development~~ permit has been granted for an Oil or Gas Facility or Facilities, within the Energy Resource Development District and in accordance with this Ordinance, such ~~development~~ permit, along together with any all other required County permits, including a Notice to Proceed, issued by the Director after and the satisfaction of any prerequisite conditions associated therewith of the approval, pursuant to Section 7.9 of this Ordinance, shall constitute sufficient authority for the commencement of the approved exploration or development.

3-173.13 APPLICATION FEES

Each application shall be accompanied by a nonrefundable application fee in the amount set forth below. The application fee shall be paid by ~~company check, cashier's check, or bank check, wire transfer or certified funds.~~ The Board shall have the authority to adjust from time to time with the fees set forth in this Section.:

~~(A)~~ Exploratory Permit Fifty dollars (\$50.00)

~~Development Permit~~ Application Fee: Fifty dollars (\$50.00) Five hundred dollars (\$500.00) for an applicant whose main headquarters are located within the County; Five

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thousand dollars (\$5,000.00) for an applicant whose main headquarters are located outside the County. In cases of questionable headquarters location, the final determination shall be at the discretion of the Director

3.183.14 APPEAL

The decision by the Director to approve or deny an ~~exploratory~~ permit is subject to appeal in the same manner and in accordance with the procedures outlined in the Rio Arriba County Design and Development Regulation System Ordinance, ~~2009-09~~.

~~The decision by the Director to approve or deny a development permit is subject to appeal in the same manner, and in accordance with the procedures outlined in the Rio Arriba County Design and Development Regulation System Ordinance 2009-09.~~

3.193.15 EXPIRATION OF EXPLORATORY PERMITS AND DEVELOPMENT PERMIT

~~An exploratory permit issued pursuant to this Ordinance shall expire if exploratory activities have not commenced within two (2) years of the date on which the development permit was issued. This two (2) year period shall be tolled pending the exhaustion of any administrative and judicial appeals.~~

~~A development conditional use permit issued pursuant to this Ordinance shall expire if the exploratory activities or the construction of the Oil or Gas Facility is not commenced within two (2) years of the date on which the development permit was issued. In the event that the decision to approve a permit is appealed, and the appeal is unsuccessful, the commencement of the two (2) year period shall begin on the date that the appeal is finally denied, or the expiration date of any subsequent appeal periods. This two (2) year period shall be tolled pending the exhaustion of any administrative and judicial appeals.~~

3.203.16 ACTIVITIES FOR WHICH APPROVAL IS NOT REQUIRED WITHIN THE ENERGY RESOURCE DEVELOPMENT DISTRICT

The following activities ~~do shall~~ not require the issuance of a ~~n-exploratory~~ permit ~~or a development permit~~ under this Ordinance:

- (A) Mapping or surveying activities that do not cause or result in any disturbance of the land; ~~and-~~
- (B) Any planning activities that do not disturb the land or adjacent properties.

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ARTICLE 4

[RESERVED]

~~EXPLORATORY PERMIT APPLICATION CONTENTS AND SUBMITTALS~~

~~4.1 GENERAL SUBMITTALS~~

~~Applications for an exploratory permit shall be made by completing an application form(s) that will be prepared and approved by the Director and will also include the following required submittals:~~

~~(A) Proof of compliance with the Surface Owners' Protection Act ("SOPA"), N.M.S.A. 1978, § 70-12-1 (2007). Proof of compliance may be satisfied by submitting a copy of the Surface Use Agreement or a letter signed by the applicant statement, the Surface Property Owner stating the Operator has complied with SOPA or proof of bonding as required by SOPA.~~

~~(B) A vicinity map of the project area, drawn at a scale 1:2000 feet and depicting the following features:~~

- ~~(1) section, township, range;~~
- ~~(2) north arrow and scale;~~
- ~~(3) major geographic features such as, slopes, drainage areas, and floodplains;~~
- ~~(4) major surface water features;~~
- ~~(5) topographic features;~~

~~(6) all state, county and private roads, existing and proposed access, and existing proposed pipeline routes, including gathering lines and transmission lines;~~

~~(7) the location of all fire, police, and emergency response service facilities. If these facilities are not located on the vicinity map, the Applicant shall provide the contact information, address, direction, and mileage to the nearest emergency response service facility.~~

~~(C) A copy of the Operator's County Business License, where applicable.~~

~~(D) A narrative of proposed exploration activities including a description of how those activities might disturb the surface and an estimation of the number of acres to be disturbed.~~

~~(E) A narrative of proposed reclamation activities and methods including a description and source of any materials to be used such as topsoils or reseeding mixtures.~~

~~(F) Additional information as determined by the Director.~~

ARTICLE 5

~~DEVELOPMENT PERMIT APPLICATION CONTENTS AND SUBMITTALS~~

5.1 GENERAL SUBMITTALS

Applications for a permit shall be made by completing and submitting an application form provided by the Director and shall also include the following ~~required~~ additional information and submittals:

~~(A)~~ The name, entity type (e.g., corporation, partnership, sole proprietor, joint venture, limited liability company), business address, mailing address, email address and telephone number of the Applicant and Operator responsible for the proposed exploratory activities and oil or gas facilities;

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~~(B)~~ The name, office title, employer (if not employed by the applying entity), business address, mailing address, email address and telephone number of the applying entity's Chief Executive Officer, Chief Financial Officer, and Chief Operating Officer, or their respective equivalents;

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~~(C)~~ The name, office title, employer (if not employed by the applying entity), business address, mailing address, email address and telephone number of the applying entity's Principal Owners (i.e., those who own or control 10% or more of the applying entity);

~~(D)~~ The name, office title, employer (if not employed by the applying entity), business address, mailing address, email address and telephone number of the applying entity's Senior Managers;

~~(E)~~ The name, office title, employer (if not employed by the applying entity), business address, mailing address, email address and telephone number of an applicant or operator representative who shall be required to reside within the County, for purposes of contacting in the event of an emergency and for addressing complaints;

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~~(K)~~ For applicants with existing oil or gas facilities within the boundaries of the United States, copies of all violation reports from the applicable federal agencies and from each state where said facilities are located, for a time period not less than twelve (12) months prior to the date of submission of the first draft of the application to the County;

~~(F)~~

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~~(L)~~ ~~(G)~~ The name, office title, employer, business firm type (e.g., engineering, law, planning, etc.), business address, mailing address, email address and telephone number of all of the Applicant's representatives, agents or consultants retained by the Applicant for the purpose of submitting all or portions of the application materials to the County.

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~~(M)~~ ~~(H)~~ Proof of compliance with the Surface Owners' Protection Act ("SOPA"), N.M.S.A. 1978, § 70-12-1 (2007). Proof of compliance may be satisfied by submitting a copy of the Surface Use Agreement, or a letter signed by the Surface Property Owner stating that the Operator has complied with SOPA. or proof of bonding as required by SOPA;

~~(N)~~ ~~(I)~~ A Locator Map on letter sized paper showing and labeling the location of exploratory or development activities in relation to surrounding communities, major roads, major water

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bodies, major topographic features such as mountain peaks, and major ownership boundaries such as national forests and tribal lands;

(O)(J) An Area Map, dated, signed and sealed by a professional engineer or land surveyor who is licensed by the State of New Mexico, drawn at a standard scale [such as one (1) inch equals four hundred (400) feet, or one (1) unit equals five thousand (5,000) units (i.e., 1:5,000)], on full-sized paper such as ANSI or ARCH "E" (approximately three (3) feet by four (4) feet), although the Director may allow for smaller sized paper in special cases. The map shall also be provided in digital format (either as an AutoCAD dwg file, or as an ArcView gdb or shape file) and shall be drawn using the Central New Mexico NAD 1983 Projected Coordinate System in U.S. feet. The area map shall show the location of the Site of the exploratory or development activities at or near the center of the map and should show the surrounding area, not less than one (1) mile from the Site and from any existing or proposed roads used to access the Site. The following features and information within this approximately four (4) square mile minimum area shall be shown:

(1) ~~the site location where the exploratory activities or development will occur, and, the access roads or drives used to access the site, all federal, state and county roads, private roads and driveways, and existing and proposed pipeline routes, including gathering lines and transmission lines. Road names and numbers shall be shown and roads shall be labeled as paved, gravel, etc;~~

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(2) section, township and range lines and numbers;

(3) north arrow and scale (in text and bar form);

(4) topographic contour lines and labels, at an interval not to exceed five (5) feet;

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(5) FEMA flood zone boundaries and information;

(6) surface water features such as ponds, rivers, reservoirs, stock-ponds, arroyos, irrigation ditches, etc.;

(7) significant planimetric and cultural features, such as houses and other structures, above-ground and below-ground utilities, signs, water wells, oil and gas wells, historic monuments or sites, etc.;

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(8) General ground cover, vegetation or land-use types, such as grassland, shrub-land, woodland, badland, arid land, bosque, agricultural land, irrigated land, grazing land, orchards, etc.

(9) property boundary lines according to the County Assessor's maps, parcel code numbers (UPC), parcel sizes in square feet and acres, and surface owners' names (include mineral estate owners' names when under different ownership from the surface land);

~~(10) all federal, state and county roads and private roads and driveways, existing and proposed access ways, and existing and proposed pipeline routes, including gathering lines and transmission lines. Road names and numbers shall be shown and roads shall be labeled as paved, gravel, etc;~~

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(H)(10) the location of all fire, police, and emergency response service facilities or

the direction and distance (in miles) to such facilities. The Applicant shall also provide the contact information, address and phone number of these facilities;

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~~(12)~~(11) all features on the map from which a setback is required by this Ordinance shall be labeled, and the distances between them and the proposed site shall be shown, in order to demonstrate compliance with the required setbacks;

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~~(P)~~(K) Site Map of the proposed exploratory activities or development, dated, signed and sealed by a professional engineer or land surveyor who is licensed by the State of New Mexico, drawn at a standard scale [such as one (1) inch equals forty (40) feet, or one (1) unit equals five hundred (500) units (i.e., 1:500)], on full-sized paper such as ANSI or ARCH "E" (approximately three (3) feet by four (4) feet), although the Director may allow for smaller sized paper in specialcases. The map shall also be provided in digital format (either an AutoCAD dwg file, or an ArcView gdb or shape file) and should be drawn using the Central New Mexico NAD 1983 Projected Coordinate System. The Site Map shall show the area where the exploratory activities or development will occur, at or near the center of the map, and should show the surrounding area, not less than seven hundred (700) feet from the Site boundaries and from any existing or proposed roads used to access the site. The following features and information within this approximately forty-five (45) acre minimum area shall be shown:

(1) all items required to be shown on the Area Map, in accordance with Section 5.1(E) above, except that the contour interval shall not exceed two (2) feet;

(2) the accurate location, size, orientation and labeling of any existing oil and gas structures and facilities;

(3) recorded utility and access easements;

(4) for each area where exploratory activities or development of oil or gas facilities will occur, a descriptive label of said activities or facilities;

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(5) recorded utility and access easements;

(6) all cuts and fills required to accommodate the facilities;

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(7) all trees that are proposed to be removed, including each tree's diameter and common species name. Further, all trees within one hundred (100) feet from the extents of the proposed oil or gas well pad site or facility site shall also be labeled with their diameters and species names;

(8) the anticipated length and depth of each proposed well, the proposed direction of each well, and the anticipated timing and scheduling of the duration it will take to drill all wells at the pad site;

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~~(Q)~~(L) A copy of the Operator's County Business License, if already operating in the County;

~~(R)~~(M) A narrative of proposed reclamation activities and methods, including a description and source (i.e., business name, location, and contact information) of any materials to

be used, such as topsoils or reseeded mixtures;

~~(S)~~(N) _____ Photographs of the Exploration Site, Well Site or Facility Site, clearly depicting the physical conditions of the Site from all four cardinal directions;

~~(T)~~(O) _____ A narrative description of the proposed oil or gas facilities, including a description of how those activities will disturb the surface, an estimation of the size of surface land-area (in acres and square feet) to be disturbed, and the various practices and construction characteristics that will be used in order to prevent detrimental impacts to the surrounding land, water, resources, residents, wildlife, and communities.

~~(U)~~(P) _____ A Surface Disturbance Plan submitted in accordance with Section 5.2 of this Ordinance;

~~(V)~~(Q) A Visual Impacts Prevention Plan submitted in accordance with Section 5.3 of this Ordinance;

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~~(W)~~(R) _____ An Emergency Response Plan submitted in accordance with Section 5.4 of this Ordinance;

~~(X)~~(S) A Noise Prevention Plan submitted in accordance with Section 5.5 of this Ordinance:

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~~(T)~~ A description of the source (location, type, and ownership information), quantity and access route for all water anticipated for use during development and operation of the oil or gas facility, and the disposal location and transportation method for produced water, brine, and all other waste products created by drilling, stimulating, or completing a well; ~~and~~

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~~(Y)~~(U) _____ A Solid Waste Management Plan including a description of solid wastes anticipated to be created during development and operation of the oil or gas facility and the proposed disposal location and method of transportation, including name and contact information of owner of destination land, and of the transport company;

~~(Z)~~(V) _____ Copies of all NMOCD and, where applicable, BLM documents filed for the same proposed Oil or Gas Facility;

~~(AA)~~(W) _____ Proof of insurance as required in Section 6.20 of this Ordinance;

~~(X)~~ For a facility located within the Headwaters Overlay Zoning District (HOZD), as that district is defined and mapped in the County's Design and Development Regulation System Ordinance, the additional submittals required by said Regulation System Ordinance shall also be provided by the Applicant.

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~~(BB)~~(Y) A water well and aquifer depth report, certified by a Professional Hydrologist licensed by the State of New Mexico, showing all domestic wells, whether private, communal, or commercial, within one and a half (1.5) miles from the oil and gas facility, horizontally and vertically, and including the depths of the aquifer of each water well, together with the target depth or depths of the proposed oil or gas wells.

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~~(C)(Z)~~ Any additional information that the Director may require to determine that the application and the proposal comply with this Ordinance.

~~Applications for a development permit shall be made by completing an application form(s) that will be prepared and approved by the Director and will also include the following required submittals:~~

~~(A) Proof of compliance with the Surface Owners' Protection Act ("SOPA"), N.M.S.A. 1978, § 70-12-1 (2007). Proof of compliance may be satisfied by the applicant statement, submitting copy of the Surface Use Agreement or a letter signed by the Surface Property Owner stating the Operator has complied with SOPA or proof of bonding as required by SOPA.~~

~~(B) A vicinity map of the Well or Facility Site, drawn at a scale 1:2000 feet and depicting the following features:~~

~~(1) section, township, range;~~

~~(2) Well or Facility Site boundary;~~

~~(3) north arrow and scale;~~

~~(4) major geographic features such as, slope, drainage areas, and floodplains;~~

~~(5) major surface water features;~~

~~(6) topographic features;~~

~~(7) all state, county and private roads, existing and proposed access, and existing proposed pipeline routes, including gathering lines and transmission lines;~~

~~(C) the location of all fire, police, and emergency response service facilities. If these facilities are not located on the vicinity map, the Applicant shall provide the contact information, address, direction, and mileage to the nearest emergency response service facility.~~

~~(1) A copy of the Operator's County Business License, where applicable.~~

~~(D) A site plan of the Well or Facility Site with the following information, if not already required by a permitting agency:~~

~~(1) north arrow and scale;~~

~~(2) the location, size, and orientation of existing and proposed structures and facilities;~~

~~(3) recorded utility and access easements;~~

~~(4) existing water wells;~~

~~(5) all surface water features.~~

~~(E) A photograph of the Well or Facility Site which clearly depicts the physical condition of the Well Site from all four coordinate directions.~~

~~(F) A Surface Disturbance Plan submitted in accordance with Section 5.2 of this Ordinance.~~

~~(G) A Visual Mitigation Plan submitted in accordance with Section 5.3 of this Ordinance.~~

~~(H) Emergency Response Information submitted in accordance with Section 5.4 of this Ordinance.~~

~~(I) A description of the source and access route for all water anticipated for use during development and operation of the oil or gas development, and the disposal location and transportation method for produced water.~~

~~(J) A solid waste management plan including a description of anticipated solid wastes to be created during development and operation of the oil or gas development and the proposed disposal location and method of transportation.~~

~~(K) The following information regarding the Applicant and the Operator of the proposed Oil or Gas Facility:~~

~~name, business address and telephone numbers of the Applicant and Operator responsible for proposed Oil or Gas facilities;~~

~~(L) the name, title, address and telephone numbers of those persons appointed by the Applicant to serve as the contact persons with the County for purposes pertaining to the submission and processing of the Applicant, including, if applicable, a description of the areas or issues for which each such person is responsible.~~

~~(M) Copies of all applicable NMOCD documents to be filed in conjunction with the proposed Oil or Gas Facility, provided upon the Director's request.~~

~~(N) Proof of insurance as required in Section 6.20 of this Ordinance.~~

~~(O) Such additional information as is required by the Director to determine the application's and the proposed development's compliance with this Ordinance.~~

5.2 SURFACE DISTURBANCE PLAN

The Surface Disturbance Plan shall provide for safe operations and adequate protection of surface resources, groundwater, and shall address any other related ~~other~~ environmental concerns. The Surface Disturbance Plan shall disclose which Best Management Practices will be used by the Operator and shall address, in narrative and graphic form, the following: contain a narrative or depiction, where appropriate, of the following elements and should disclose any Best Management Practices to be used by the Operator:

~~(A)~~ The number of acres to be disturbed during each phase of exploration or development, and a description of current land use and reasonably foreseeable future land use on the property. The description of current land use should, at a minimum, list include the current Land Use Designation of the property as designated by the County;

~~(A) — Planning and Zoning Department.~~

~~(B) —~~

~~(C)~~ (B) A description of roads and drives including:

- (1) existing public roads and access roads and their current Levels of Service;
- (2) anticipated traffic related to the development including types of vehicles and estimated trips per day;
- (3) any improvements or scheduled maintenance of existing roads, including a list of materials to be used and their source (i.e., business name, location, and contact information), demonstrating that the Operator, at its own expense, will improve or maintain existing roads in a condition the same as equal to or better than their condition before prior to development began;
- (4) a schedule of any surface disturbance activity that may cause dust, and the proposed dust mitigation or remediation techniques, including, but not limited to, watering, resurfacing with dust-free material, and vehicle speed control; and
- (5) new access roads to be constructed, including, where appropriate, the following information:
 - (a) description of road materials, width, length, maximum grade, and crown design;
 - (b) description of horizontal and vertical radii for all curves needed to accommodate intended traffic;
 - (c) location of passing areas (turnouts);
 - (d) description and location of major cuts and fills;
 - (e) description and location of all fence cuts and cattle guards;
 - (f) description and location of topsoil excavation and topsoil storage sites;
 - ~~(g) description of surface materials used if any;~~
 - ~~(h)~~ (g) plans for soil and topographic-dependent drainage including location and sizes of ditches, culverts, bridges, and any other drainage methods employed; and

~~(i)~~(h) a description and schedule of maintenance and upkeep plans for proposed access roads:-

~~(C)~~ A description of the noxious and invasive plant species of concern within the vicinity of the Well Site or Facility Site and the proposed mitigation techniques to prevent the appearance or spread of these species. The Applicant should-shall consult the local agricultural extension office of the New Mexico State University, and the local Natural Resource Conservation Service office for information about noxious and invasive plant species that exist in the area and the best methods available to contain or eliminate them:-

~~(D)~~—

~~(E)~~—

~~(F)~~(D) A description of soil characteristics, a discussion of the limitations those characteristics may pose to the proposed development, and a description of any erosion mitigation techniques to be used including, but not limited to, the following where appropriate:

- (1) silt fencing;
- (2) berms or dikes;
- (3) seeding and vegetation;
- (4) vegetative buffers;
- (5) water bars (diagonal interceptor dikes); and

~~(6)~~ seasonal road closures and speed limits:-

~~(G)~~—A proposed tree and vegetation thinning plan, if the extents of the proposed well pad site or facility site are within one hundred (100) feet of a tree line, within fifty (50) feet of individual trees or a ground cover type that may pose a threat by way of spreading fire emanating from the oil or gas facilities, or if otherwise required by the Director:

~~(E)~~

~~(H)~~—

~~(F)~~ A drainage map identifying natural drainage and how storm water will be managed within the project area to prevent the travel of runoff. Where appropriate, the drainage map shall include a watershed map showing all the upper watershed area draining into or through the well site or facility site:

~~(I)~~—

~~(J)~~—

~~(K)~~(G) A Reclamation Plan, which shall include a narrative describing clear goals for reclamation and how those goals are to be achieved. A Reclamation Plan should-shall address the reclamation of roads, the pad site, and all other areas of the development where the surface was

disturbed. A NMOCD Closure Plan may be submitted as part of the Reclamation Plan. -The Reclamation Plan ~~should~~ shall include, but not be limited to, the following information:

- (1) schedule and description of interim reclamation activities to be conducted following the completion of each phase of development ~~within the Well Site~~; and
- (2) schedule and description of proposed final reclamation activities to be completed upon the final plugging and abandonment of the Oil or Gas Well, and a discussion of how those reclamation activities will impact the anticipated future uses of the property.
- (3) Reclamation activities described in the Reclamation Plan may include, but not be limited to, the following, ~~but not limited to, where appropriate~~:
 - (a) ~~Restoring modified topography to its original shape and restoring drainage-ways to pre-development conditions; configuration of the reshaped topography and restored drainage;~~
 - (b) soil treatments (such as with fertilizers, etc);
 - (c) reseeding materials and revegetation methods;
 - (d) backfill or grading requirements; and
 - (e) soil stabilization techniques; and
 - ~~(f) pit reclamation.~~

5.3 VISUAL MITIGATION PLAN

(A) A Visual Mitigation Plan ~~may~~ shall be required when a proposed development is located within immediate view of a scenic byway, a federal -highway or any State or County road, or a BLM or USDA Forest Service identified visual resource, a structure housing a residence or business, or if otherwise determined necessary by the Director, -at the Onsite Visit. This requirement may, at the discretion of the Director, be removed on a case-by-case basis, for applications within the Energy Resource Development District only, if the area surrounding the proposed site already contains existing facilities that are within similar lines of sight as the proposed site, and that are minimally screened or blended with the background landscape.

(B) The Visual Mitigation Plan shall be developed by the Operator with opportunity for the Surface Property Owner to provide feedback. The Director shall assess the Visual Mitigation Plan based on the proposed visual mitigation techniques, considering the site specific natural and visual resources, and the existence of any surface use agreement.

(C) The Visual Mitigation Plan shall contain a narrative describing one or more of the following visual mitigation techniques which should be used on a site specific basis and considering the site's available natural resources:

- (1) establishment ~~of, or use of existing~~ berms, ground covers, shrubs and trees;
- (2) using existing slopes, or shaping new slopes (cuts and fills) to appear as natural forms;
- (3) ~~designing the facility to~~ utilize other natural screens ~~and/or~~ fencing;
- (4) vegetation and vegetative screening;
- (5) shielded and directed lighting, such that no light is emitted towards the sky or towards adjacent properties;
- ~~(4)~~(6) selecting paint color of pumping units and tanks to match the coloring of the surrounding landscape
- ~~(5)~~(7) low-profile pumping units and tanks; and
- ~~(6)~~(8) any other possible visual mitigation techniques approved by the County.

5.4 EMERGENCY RESPONSE ~~INFORMATION PLAN~~

(A) An Emergency Response ~~Information Plan~~ submitted to the County ~~should~~ shall include, but not be limited to the following information and requirements, and ~~will~~ shall be kept on file with the County Fire Marshall and Emergency Management Director, reviewed annually, and updated as necessary:

(1) Name, address and phone number, including a twenty-four (24) hour manned emergency number of person(s) or facility responsible for emergency field operations:-

(2) A list and a map or maps in both paper and digital (ArcView GIS) format of the Operator's Oil or Gas Facilities, including all of its well pad sites and pipelines in the County. The list shall include for each facility - identified by corresponding the longitude and latitude, parcel code number, name of public road by which the facility is accessed and off-set distance therefrom, distance and direction to the nearest cross-road, and an detailed inventory and description of all separate facilities (e.g., "two tanks [with size stated], one well-head, one pump, one monitor system", etc.) at each site; and -

(3) A description of the applicant's firefighting, medical, and environmental apparatus and supplies, and the applicant's response plan in the event of each type of respective emergency.

(4) A description of all emergency procedures and responses that will occur in the event of all possible categories of emergencies, including fire, spills, water contamination, and injured personnel or bystanders.

(5) A list of all chemicals and materials that will be used by the Operator, including what the purpose is of each, and at which phase (e.g., drilling, stimulation, etc.) each will be used.

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(6) The Material Safety Data Sheets for all chemicals used by the Operator. (In accordance with the federal Community Right to Know Act.)

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5.5 NOISE PREVENTION PLAN

(A) The Noise Prevention Plan shall provide for the maintenance of the quiet environment enjoyed by most areas of the County. This requirement may, at the discretion of the Director, be removed on a case-by-case basis, for applications within the Energy Resource Development District only, if the area surrounding the proposed site is uninhabited, whether by humans, wildlife, or livestock, or is naturally noise-deterrent, due to features such as topography or vegetation. The Noise Prevention Plan shall describe, in narrative and graphic form, the construction methods, equipment designs, and Best Management Practices that the Applicant will use in order to limit the noise emissions from the oil or gas facility in order to comply with the requirements of this Ordinance. Such methods, designs and practices shall include but not be limited to:

(1) Low-profile, and pneumatic or electrically-powered pumping units;

(2) Automated remote monitoring systems; and

(3) Enclosing pumpjacks and compressors in sound-insulated buildings;

ARTICLE 6

DESIGN AND OPERATIONAL STANDARDS FOR OIL AND GAS EXPLORATION AND DEVELOPMENT

6.1 GENERAL REQUIREMENTS

(A) All drilling and other operations conducted at an Oil or Gas Facility or construction of structures associated with, or serving an Oil or Gas Facility, for which ~~an exploratory permit or a development~~ permit is required, shall strictly comply with the requirements of this Ordinance applicable to such Exploratory Activities and Oil or Gas Facility or Facilities, including, but not limited to those set forth in this Article, and shall be conducted at all times in accordance with the Best Management Practices of a reasonable and prudent Operator.

~~(A)~~(B) For any oil or gas facility in the Energy Resource Development District that is also located within the Headwaters Overlay Zoning District (HOZD), as the latter is defined and mapped in the County's Design and Development Regulation System Ordinance, the applicant shall also comply with the additional relevant standards set forth in said Regulation System Ordinance. This provision, 3.1(B), shall not apply to the Frontier District.

6.2 SETBACKS

~~No Oil or Gas Facility shall be permitted within a floodplain as mapped and designated by the Federal Emergency Management Agency (FEMA).~~

~~(A) Setbacks shall not apply to roads used solely for the purpose of accessing Oil or Gas Facilities.~~

~~(A) Unless specifically stated otherwise below, setbacks shall be measured from the right-of-way boundary center of roads, the centerline of private drives, and from the seasonal highest water mark of watercourses, or the outer boundary of a the affected sSurface wWater Featurebody, the exterior walls of a structure, the center of a water well, and at any and all points along an Oil or Gas Well (including its surface hole, its down-hole terminus, its perforated portions, and any intermediate points along the well casing). All measurements, unless specifically stated otherwise, shall be taken as the length of a straight line between the two points in question, (i.e., not measured along one plane only, such as only horizontally or only vertically). For setbacks from high impact sub-surface activities such as well stimulation, including by Hydraulic Fracturing, to features for which more than one possible setback dimension is provided depending on surface conditions such as wind and drainage direction which may not directly apply to the sub-surface activity, the required setback shall be that which is the most stringent among the multiple setback options.~~

~~(B) Unless specifically stated otherwise below, a new Directional Well drilled from an existing surface pad site shall be exempted from the setbacks required by this Section. This exemption shall apply only to the Energy Resource Development District, not to the Frontier District.~~

~~(B)(C) Access ways to and from an oil or gas facility, the down-hole terminus or perforated portions of a well bore (directional or vertical), and high impact down-hole activities such as well stimulation, including by Hydraulic Fracturing ("Fracking"), shall not be exempted from the setbacks required by this Section.~~

~~(C)(D) No new exploration or Oil or Gas Facility, unless specifically stated otherwise below, shall be permitted within the following distances fromof the following geographic-natural and man-made features and structures:~~

~~(1) inhabited-any structure, whether a residential dwelling, a place of business or assembly, a school, institution, an agricultural or livestock structure such as a storage shed, corral, greenhouse or barn, or any other primary or accessory structure, whether occupied or abandoned: - 650-3,960 feet (3/4 mile) when located downwind or side-wind from the structure, based on the prevailing wind direction; 5,280 feet (one mile) when located upwind from the structure. Determination of the prevailing wind direction for an area shall be obtained from data from a reputable meteorological monitoring source such as the National Oceanic and Atmospheric Administration (NOAA), and is subject to review by the County who shall issue the final determination as to wind direction and which setback shall apply. If there are existing natural screens such as a ridge or a wooded area between the proposed facility and the existing structure then the setback may be reduced to 3,960 feet (3/4 mile) or other reasonable protective distance, as determined by, and at the discretion of, the County, regardless of the prevailing wind direction.;~~

~~(2) structure used as a place of assembly, school or institution—1000 feet;~~

~~(3) non-residential structure—200 feet;~~

(2) ~~any~~ Any state or federal or county publicly dedicated road or highway—; 2,640 feet (1/2 mile) 200 feet. This setback may be reduced if the County determines that there are sufficient visual mitigation measures in place. A pipeline shall be excluded from this setback requirement, though its location shall be subject to review and approval by the County;

(3) Any County-owned public road: 200 feet. A pipeline shall be excluded from this setback requirement, though its location shall be subject to review and approval by the County;

(4) A privately-owned driveway, road, or access-way: 1,000 feet;

(5) Any surface water features, including but not limited to a lake, reservoir, pond, stock pond (for cattle, sheep, horses and any other livestock), irrigation ditch (acequia), river, arroyo, stream, creek, whether perennial, intermittent or ephemeral: — 2,640 feet (1/2 mile) when located at an elevation lower than the subject water body or when separated from the water body by a ridge of land higher than both the oil or gas facility and the water body; 3,960 feet (3/4 mile) when located at an elevation higher than the subject water body with no ridge barrier between the oil or gas facility and the water body 300 feet. For water courses that are intermittent or ephemeral, either setback may be reduced, at the discretion of the County, depending on the type of facility proposed and the extent of run-off prevention measures proposed to be used. However, in no event shall a setback from an intermittent or ephemeral watercourse be fewer than five hundred (500) feet within the Energy Resource Development District, nor fewer than one thousand (1,000) feet within the Frontier District;

(6) ~~existing water well permitted by the State Engineer and used by less than five (5) households — 200 feet;~~

(6) existing water well permitted by the State Engineer—used by any individual, family, group of households of any number, livestock, wildlife, business, or community, such as through a Mutual Domestic Water Consumers Associations, five (5) or more people—7,920 feet (1.5 mile), 4000 feet; This setback may be reduced to 3,960 feet (3/4 mile), at the discretion of the County, for facilities that do not include a new oil or gas well.

(7) water treatment facility and water storage tank or facility: 5,280 feet (one mile);

(8) the upper and lower horizontal boundaries of an aquifer used to supply any water well as described under Section 6.2(B)(6) above, as said boundaries are determined by the geological, hydrological, or water well reports required by this Ordinance to be submitted by the Applicant: 5,280 feet (one mile). This setback shall be measured from the down-hole terminus of the oil or gas well, or from the extents of any perforated portions thereof, whichever is closest to the nearest aquifer boundary.

(7)(9) The exterior extents of any existing oil or gas well pad site or facility, whether producing, abandoned, or approved but undeveloped, not including an abandoned site that has been entirely and successfully reclaimed: three (3) miles. For a facility, such as a compressor station, that does not involve a new oil or gas well, this setback may be reduced at the discretion of the County; however, in no instance shall the setback for such a facility be fewer than 2,640 feet (1/2 mile). A pipeline shall be exempted from this setback

requirement.

(10) ~~within~~ a designated cultural, historic or archeological resource area as recommended according to ~~designated by~~ the applicable surface management agency, such as the New Mexico State Historic Preservation Officers (SHPO); [e.g. SHPO]- 2,640 feet (1/2 mile);

~~(9)~~(11) the boundary of any field or portion of land used for growing agricultural farm crops for human or animal consumption and use, whether watered by irrigation ditch or any other means; 2,640 feet (1/2 mile) when located at an elevation lower than the subject field or when separated from the field by a ridge of land higher than both the oil or gas facility and the field; 3,960 feet (3/4 mile) when located at an elevation higher than the subject field with no ridge barrier between the oil or gas facility and the field;

~~(D)~~(E) The ~~Director~~ County has the discretion to permit deviation from, by either increasing or decreasing, -from the prescribed setbacks based on the topography, drainage, vegetation or other existing natural features of the site, the Operator's demonstrated ability to protect-prevent and/or mitigate ~~the-any~~ impacts on the foregoing features, and with the written agreement of the Surface Property Owner or tenant, or, where applicable, the Adjacent Surface Property Owner or tenant, and/or the appropriate surface management agency. The Director shall provide written justification for any case requiring a deviation from the prescribed setbacks.

6.3 STORAGE TANKS AND OTHER FACILITIES, AND MISCELLANEOUS EMISSIONS AND INSPECTION-ACCESS REQUIREMENTS

(A) ~~Except as otherwise mandated by the NMOCD, t~~Tanks used for the storage of condensate, crude oil, or other liquid hydrocarbons produced by and/or used in conjunction with any Oil or Gas Facility shall conform to the American Petroleum Institute (A.P.I.) standards for such tanks. All above-ground storage tanks shall be equipped with a secondary containment system, constructed and maintained in accordance with the provisions of this Ordinance. ~~ing to applicable current Best Management Practices.~~

(B) Storage tanks and other facilities, equipment and structures, shall be constructed and supported so as to be securely fastened to the ground upon which they are built;

(C) No emissions, whether liquid or gaseous, from any storage tank, well head, or from any other oil and gas facility shall exceed the limits mandated in the New Mexico Environment Department's Air Quality Bureau standards pursuant to N.M.A.C. 20.2.1. The exceeding of said emissions limits shall be grounds for revocation of a permit, requiring activities at the facility to cease and the facility to be closed and removed. Air quality testing shall be conducted at the applicant's expense by a third party tester contracted with the County, which may include the New Mexico Environment Department or a private consulting firm, at periodic intervals as requested and as determined necessary by the County. Such testing shall include baseline testing prior to installation of any oil or gas facility.

(D) The County shall be granted access to any oil or gas facility at any time, upon request, and without advanced prior notice, in order to inspect any tank or other facility to

examine the soil and air quality at the location of the facility.

~~(A)(E)~~ Open air, in-ground storage pits shall not be permitted. All below-grade tanks shall be constructed and maintained according to NMOCD regulation.

6.4 WELL SITES AND FACILITIES

(A) The location selection of a surface well pad or facility site, and the permitted number thereof, shall be subject to review and approval by the County. The determination of the appropriate location for a surface well pad site shall be based on various criteria, including, but not limited to, the minimum setbacks required by this ordinance, the topography, drainage network, and vegetation-type on and surrounding the site, the visibility of the proposed facilities from such locations as public roads and private residences or other structures or land uses, proximity to abutting property boundaries, whether mineral or surface, the existence or lack of access ways to the proposed site, the considerations and concerns of the surface property owner, and any other reasonable factor deemed critical for minimizing the negative impacts of the facility on the environment, the surrounding land, resources, residents and communities. The location and number of allowable surface pad sites, as well as the direction and length or depth of proposed wells shall further be reviewed in light of the size and configuration of the target Mineral Estate or Estates. The County shall have the authority and discretion to limit the number of surface well pad sites for any individual Mineral Estate or group of contiguous or nearby estates under the same ownership, whether owned in fee, or by lease or contract, to fewer than two (2) surface pad sites per Estate, and to require, limit or prohibit Directional Drilling.

~~(A)(B)~~ The Well Site shall not be used for the storage of pipe or other equipment or materials except during the drilling, ~~operating~~, or servicing of Oil or Gas Wells. An equipment storage facility is a separate use category (Class III, in accordance with the Rio Arriba County Design and Development Regulation System Ordinance) and an application for a Special Use Permit for such a facility shall be filed separately. No two storage facilities for oil and gas equipment shall be located within twenty (20) miles of each other. ~~Where not already required by another permitting agency, the Operator may seek a written exception/permission for staging of pipe or other equipment from the Director which shall be approved upon a demonstration of need, for a length of time to be determined by the Director and the Surface Property Owner. Where storage permitting is authorized by another permitting agency, a copy of the storage permit or authorization may be required at the request of the Director.~~

(C) The maximum area permitted to be disturbed and occupied by an oil or gas well pad and facility site is: during drilling, one (1) acre; after well completion, or for facilities that do not include wells, one half (0.5) acre. These limits constitute the maximum areas allowed to be disturbed and occupied. However, the operator shall use less than these amounts if a lesser area will accommodate all facility equipment and vehicles, and provide a safe work area, and minimize surface disturbance. ~~The size of the facility is subject to review and limitation by the County. Under special or unusual circumstances, the County shall have the discretion to increase the allowable size of the disturbed surface area.~~

(D) All pumping units shall be low-profile, shall not exceed fifteen (15) feet in height, and

shall be powered either pneumatically or electrically. If powered electrically the source shall not be through conventional electric lines, or through internal combustion engines, but shall be generated from an alternative energy source such as solar.

(E) Equipment and production at any oil or gas facility shall be monitored using automated remote systems only. Routine monitoring shall not be performed by way of on-site visits by Operator personnel.

~~(D)~~(F) Pumping units and compressors shall be enclosed in acoustically-insulated (sound-proof) buildings. This requirement may be waived at the discretion of the County for well pumping units only, and only in the Energy Resource Development District, if the site is far removed from areas inhabited by humans, livestock, and significant wildlife.

(G) Following the completion of an Oil or Gas Well, the pad shall be reduced to the ~~minimal~~ smallest area possible that still facilitates the operation of size required to operate the site, in accordance with Section 6.4(C), and the surrounding disturbed surface shall be reclaimed.

(H) Oil or Gas Facility sites shall be enclosed by a perimeter of fencing, not fewer than six feet in height, with lockable gates. The fencing material shall be of sufficient strength and density, such as chain-link fencing, so as to prevent access by animals and unauthorized personnel. An exception to this fencing requirement may be made by the County for facilities comprising stand-alone building structures with lockable doors and other facilities that by their nature or by their location do not pose an apparent risk to livestock, wildlife, or people.

(I) An Oil or Gas Facility site that is located in an area with surface material conditions of low-porosity and low-permeability shall be required to be surrounded by berms or dikes with impermeable linings on their interior (well- or facility-facing) catchment side, to prevent run-off and to catch fluids and contaminants in the event of an accidental spill. If the well pad site or facility site is built upon or surrounded by land whose drainage occurs in a limited direction, then the berm or dike may be built solely along the downhill side or sides of the oil or gas facility.

~~(C)~~(J) All pipelines used to transport gas or liquid to or from a well-pad site or facility site shall be made known to the County, in map form, both digitally (as an ArcView GIS file) and in hard-copy form. For all pipelines that run within County roads, the applicant shall be required to enter into a Franchise Agreement for the use of that road right-of-way for pipeline purposes to protect the County's interest and shall pay to the County a Franchise Fee as required by said Agreement.

6.5—DRILLING, CO-LOCATION, STIMULATION, AND COMPLETION OF OIL OR GAS WELLS

6.5

(A) There shall be a limit of one surface pad site for every twenty eight (28) wells drilled by an Applicant for a given mineral estate or a group of contiguous or nearby estates. This requires that the Operator use directional drilling of well bores. This also requires that the surface pad site be located as centrally as possible within the horizontal boundaries of the mineral estate or group

of estates. The County may, at its sole discretion, based on the individual circumstances of the site, including but not limited to the size and configuration of the mineral estate or estates, reduce the aforementioned number of wells required per surface pad site. An applicant with any existing surface pad site or sites, or with active approval for the same, within three (3) miles of a new proposed surface pad location shall not be permitted to file an application until twenty eight (28) wells have been drilled and are in production at all of the applicant's existing or previously approved surface pad sites within the aforementioned three (3) mile radius, or until the applicant has received written relief from the County from this requirement. The information required to be submitted by all applicants in Section 5.1(A) through (D), inclusive, of this Ordinance, above, may be used by the Director in order to determine whether applicants with different company names shall be deemed the same applicant for the purpose of this Ordinance and of this Section and provision. Pertinent well information, such as depth and direction, for all twenty eight (28) wells shall be included in the permit application. Any well not included in the initial application shall require a future separate application and approval prior to drilling such subsequent wells.

(B) No oil or gas operation shall use any collection and processing system other than a Closed Loop System.

(C) No oil or gas shall be released, spilled or flared from a well into the air, onto the ground surface, or into any surface water body. Further, the release of oil or gas into any subsurface formation within one (1) mile of the upper and lower limiting boundaries of an aquifer, whether or not that aquifer is used to supply a water well, shall be prohibited.

(D) All internal combustion engines, including motor vehicles, used in conjunction with drilling and completion of an oil or gas well shall be required to be fitted with catalytic converters, or be fueled by natural gas or electricity. Gasoline, diesel, or other polluting fuels used in engines without catalytic converters shall be prohibited.

(E) All power required to operate a completed and producing oil or gas well and associated facilities shall be obtained from a source or sources which emit minimal air pollutants, such as natural gas, solar, geothermal, wind or other clean, alternative, sustainable, renewable energy. Furthermore, no conventional electrical lines, whether underground or overhead via poles, shall be permitted to be installed to the well pad or facility site. The use of oil, gasoline, diesel fuel, or any other polluting hydrocarbon shall be prohibited. For fuel and power supply during the drilling and completion phase, see Section 6.5(D) above.

(F) For the purpose of well stimulation, including by Hydraulic Fracturing ("Fracking"), the amount of water used per oil or gas well shall not exceed 250,000 gallons.

(G) Any oil or gas well that passes through an aquifer or is located within one and a half (1.5) miles from an aquifer shall be encased in impermeable, pressure-resistant material, such as concrete, steel, and any combination or multiple, alternating layering thereof, in accordance with the highest and most current technological construction standards available.

(A)(H) Any pump or compressor used in association with an oil or gas well or facility shall be located, configured, powered, equipped, maintained and designed such that no noise exceeding 40 db(A) between the hours of 7:00 PM and the next 7:00 AM, and 50 db(A) between

~~the hours of 7:00 AM and the next 7:00 PM can be heard at a distance of three hundred fifty (350) feet or greater from such a facility. The County strongly encourages multiple wells be co-located on a single well pad. Well pad size may be increased where there are multiple wells co-located on a single pad but only to the extent required to accommodate safe operation of the multiple Oil or Gas Wells.~~

6.6 PLUGGING AND ABANDONMENT

The Operator shall comply with all NMOCD regulations and any other relevant Federal and State regulations applicable to the plugging and abandonment of an Oil or Gas Well. Additionally, the well heads of abandoned wells shall be removed.

6.7 FIRE PREVENTION AND EMERGENCY RESPONSE

~~(A) The Operator shall insure that firefighting apparatus and supplies are provided, as required by any applicable Federal, State, or County law.~~

~~(B)(A) The Operator shall~~ cease any operation that might be deemed a fire hazard any time the New Mexico State Forestry Division issues a Red Flag Warning for conditions that create a high potential for fire danger. ~~conform to all red flag days as designated by the New Mexico State Forestry Division.~~

~~(C)(B) The Operator shall place~~ at the Well or Facility Site a sign ~~at the Well Site, 12 inches by 24 inches showing, in 2 inch-high lettering, the Operator's name, business location, and emergency telephone numbers.~~ constructed and displayed pursuant to NMOCD regulation 19.15.17.11 N.M.A.C.

6.8 LIGHTING

All permanent and temporary lighting fixtures shall comply with the Rio Arriba County Night Sky Protection Ordinance, ~~2009-02.~~ Further, no permanent or temporary lighting shall be directed at or visible from, any neighboring structure, residential or otherwise, within sight of the oil or gas facility.

6.9 CULTURAL, HISTORICAL, OR ARCHEOLOGICAL SITES

In the event that a cultural, historical, or archeological site is discovered or identified during any phase of development within the Well Site, or the construction of access roads, the Operator shall comply with all applicable local, state and federal regulations related to the protection of such resources.

6.10 AIR QUALITY

All Oil and Gas Facilities shall comply with the New Mexico Environment Department's Air Quality Bureau standards pursuant to N.M.A.C. 20.2.1, except that, for any requirement of this County Ordinance that is more stringent than the New Mexico State standards, the County's requirements shall be in force.

6.11 WASTE

(A) All solid and sewage waste shall be securely contained on the site and properly disposed of according to all applicable Federal, State, and County regulations. For solid waste, the Operator shall provide to the Director proof of account with North Central Solid Waste Authority.

(B) All drilling wastes, brines, and produced waters shall be disposed of at a facility capable of processing hazardous wastes, according to NMOCD regulations. ~~The Operator shall be required to submit to the Director a copy of the receipt for such disposal from the hazardous waste processing facility each time such a disposal is made.~~

(C) An Operator shall not inject produced water or any other fluid into a subsurface reservoir or formation to maintain reservoir pressure, for secondary or other enhanced recovery, except pursuant to an approved NMOCD permit. Additionally, produced water injected for the above-stated purposes shall be injected only into the producing formation from which it originated, and at the same depth thereof. The only liquid permitted for the above-stated purposes shall be produced water.

(D) The injection of produced water, brine, or any other waste by-product of oil or gas drilling or production into a subsurface reservoir or formation ~~or~~ for storage or disposal shall be prohibited except pursuant to an approved NMOCD permit. This provision applies only to the Energy Resource Development District.

~~(E)~~ _____

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6.12 SURFACE DISTURBANCE AND RECLAMATION

(A) Soils and terrain management:

(1) Soils ~~with~~having severe limitations, or which are shown as unsuitable for the intended purposes shall not be used for those purposes unless the Operator has clearly demonstrated in the Surface Disturbance Plan how the soil limitations are to be overcome or mitigated.

(2) All topsoil stripped from the surface and retained on the site shall be carefully stockpiled in a manner to prevent erosion and to facilitate its re-application to the disturbed areas during reclamation.

(3) Any necessary grading or clearing ~~should, to the extent possible, shall~~ follow, preserve, match, or blend with the natural contours and vegetation of the land and should not increase the possibility for erosion.

(4) The Operator shall take sufficient measures to prevent dust arising from any area where the surface is disturbed.

(5) All changes made to the existing soil composition and arrangement ~~should shall~~ be compatible with the soil stability and erodability as demonstrated in the soil survey, ~~if a soil~~

~~survey was required in the application.~~

(B) Drainage and Erosion:

(1) ~~To the extent possible, t~~The Operator shall preserve the natural drainage that existing exists on the site prior to development.

(2) Water that drains from the Well Site shall not contain pollutants or sedimentary materials at a greater concentration than would occur without the presence of the development.

(3) Drainage from the Well Site shall not cause erosion outside of the site to a greater degree than would occur without the presence of the development.

(C) Roads and Traffic:

(1) Chains on heavy equipment shall not be permitted on paved County roads. All damage to County roads ~~directly attributable caused by to~~ the installation, construction and operation of Oil or Gas Facilities, as determined by the County, shall be promptly repaired at the Applicant's expense.

(2) Heavy equipment shall not be used on roads with ruts measuring six (6) inches or more in depth.

~~(3) Speed of all vehicles travelling on gravel access roads directly connecting with an oil or gas facility site shall not exceed fifteen (15) miles per hour. Speed limits shall be set at a minimum level possible to prevent the creation of dust and erosion.~~

~~(3)(4) Speed of all vehicles travelling on gravel roads connecting paved main public roads with access roads that connect directly to an oil or gas facility site shall not exceed twenty five (25) miles per hour.~~

~~(4)(5) The amount of traffic generated by the proposed development shall not cause public roads to operate at a level less than what can be met by current capacity and structural conditions.~~

~~(6) In the event that traffic generated by the development increases the burden on or causes a deterioration of County Roads, the Operator shall be required to pay a pro rata share of the costs incurred to improve the County Road, as The pro rata share shall be determined by the County's Public Works Director and the Applicant.~~

~~(7) No new County public roads shall be established in order to accommodate an oil or gas facility. All access to and from an oil or gas facility shall be via existing public roads, or private access roads or driveways. Where existing private access ways can be used without conflicting with the interests of the surface land owner, such access ways shall be used.~~

~~(8) The length of any new access road to a facility site shall not exceed five hundred (500) feet. Any variation from this limit may be subject to approval by the County at its discretion, based on extenuating circumstances of the site, such as difficult topography and other~~

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similar limiting factors.

(9) All improvements to existing roads, public or private, whether required by the County to accommodate the oil or gas development, or whether desired by the Operator for any reason, shall be wholly funded and constructed by the Operator, under supervision of the County.

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(10) The location, design, construction, maintenance and quality of new access-roads, and the improvements required to any existing access roads to handle the traffic levels, and vehicle and load-types associated with the oil or gas activity shall be made in accordance with the 2006 publication from the New Mexico Environment Department, Surface Water Quality Bureau, Watershed Protection Section entitled "Water Harvesting from Low-Standard Rural Roads" (authored by Bill Zeedyk) and shall be subject to review and approval by the Director.

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(11) All existing, public roads and privately-owned access roads used by the Operator shall be maintained or improved to be in good working order and condition at all times and at the Operator's expense.

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(D) Vegetation:

(1) During development and operation, the Operator shall ~~cause minimize~~ damage to ~~any~~ existing vegetation, ~~the removal of which is not necessary to facilitate the oil or gas facility.~~

(2) No dust or particulate matter created from and oil or gas operation shall be permitted to fall onto any vegetation surrounding the oil or gas facility.

~~(3)~~(3) No tree with a diameter of eighteen (18) inches or greater shall be cut, damaged, felled or otherwise removed without express written consent from the Director.

~~(4)~~(4) There shall be no introduction of, or increase in the prevalence of, invasive or noxious plant species within ~~or surrounding~~ the Well Site as a result of oil or gas activity.

~~(5)~~(5) Operators ~~should~~shall consult the local agricultural extension office ~~of the New Mexico State University system~~ or the local ~~New Mexico~~ Natural Resources Conservation Service ~~office~~ -to determine the appropriate materials needed to prevent or contain the spread of noxious and invasive plant species. ~~This information shall~~ ~~Any materials used should~~ be listed ~~attached to~~ the Surface Disturbance Plan.

(E) Reclamation:

(1) The Operator shall begin interim and final reclamation activities ~~as soon as practicable upon~~ ~~within ten (10) days of~~ completion of each phase of development. ~~However, re-seeding shall not necessarily be done at the time immediately following phase completion, but may be delayed until the next appropriate season, as determined in conjunction with the Director, to ensure that seeds will get sufficient heat and precipitation needed to germinate. The County shall conduct site-visits at varying intervals after the re-seeding, to ensure that growth is underway and is of sufficient quality and health so as to continue undeterred indefinitely. In the~~

event that the County makes a reasonable determination that the re-growth is not self-sustaining, the Operator shall be required to reclaim the land again, as many times as is needed, until a satisfactory reclamation has been achieved.

(2) The Operator shall reseed by way of a commonly used, mechanized method such as “drilling on the contour”, or another method as approved by the Director.

(3) The Operator shall obtain vegetative cover of not less than that equals seventy percent (70%) percent of the native perennial vegetative cover, which has and this coverage amount shall not have been impacted by overgrazing, fire, or some other damaging intrusion, and that vegetative cover shall be maintained that vegetative cover for at least two (2) successive growing seasons in order to be deemed a successful reclamation.

(4) The Operator shall notify the County at least not more than ten (10) days in advance of the date that final reclamation activities are to begin and the Operator shall also notify the County as soon as final reclamation activities have been completed.

(4)(5) In cases where an Operator or Applicant has an oil or gas well whose producing life is completed, and which has been or is ready for plugging and abandonment, the reclamation of the pad site shall be successfully completed prior to said Operator or Applicant being able to obtain permits for any new oil or gas well or facility.

6.13 VISUAL IMPACTS

(A) To the extent possible, facilities shall not be located within immediate view of a residential dwelling, and a federal highway, or scenic byway or visual resource, as identified and mapped by the County or in the BLM Resource Management Plan or the USDA Forest Service Plan.

(B) Oil or Gas Facilities shall be painted or otherwise made to be harmonious with the surrounding environment as follows:

(1) uniform or camouflaging, noncontrasting, nonreflective color tones, similar to using BLM's Standard Environmental and Supplemental Colors coding system;

(2) color matched to land, not sky, slightly darker than the adjacent landscape;

(3) any other color scheme comparable to the foregoing as agreed upon by the Operator and Surface Property Owner, and approved by the County.

(3)(C) The County, at its discretion, may require other measures, on a case-by-case basis, to screen or minimize the visibility or visual impact of an oil or gas facility, including requiring site-location adjustments, and any other reasonable measure based on well-researched and effective source material, such as the Visual Mitigation Guidelines of La Plata County, Colorado, whose landscape and environment are comparable to those of Rio Arriba County.

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6.14 FENCING

~~(A) Perimeter fencing and a locked gate for an Oil or Gas Facility or Facilities shall be required where:~~

~~(1) there is a structure used as a place of assembly, school, or institution within one thousand (1000) feet of the facility or facilities;~~

~~(2) there are four (4) or more existing residences within one thousand (1000) feet of the facility or facilities;~~

~~(3) there is an existing non-residential or commercial structure within six hundred (600) feet of the facility or facilities; or~~

~~(4) there is a determination by the Director that public safety so requires.~~

~~(B) The design and construction of the required fencing shall be a chain link fence to a minimum height of six (6) feet and should be topped by a minimum of two strands of barbed wire, or any other design approved by the Director.~~

~~(C) The Operator shall, at a minimum, comply with NMOCD requirements for fencing to protect livestock and wildlife for Oil and Gas Facilities that include a pit.~~

~~6.156.14~~ NOISE

~~(A) All construction, maintenance, and operations of any Oil or Gas Facility shall be conducted in a manner to minimize the noise created to the greatest extent possible.~~

~~(A) Sound Pressure Levels ("SPL's") emanating Noise will from an oil or gas facility shall be measured on the "A"-weighted scale, using standard an industry approved protocol of the American National Standards Institute ("ANSI") for such measurements. The instruments used for measurement shall be either a Type I or Type II Sound measurement instruments Level Meter ("SLM") will be either a Type I or Type II, SPL instrument that meets or exceeds established ANSI standards.~~

~~(B) Measurements of SPL's (i.e., measurement of noise levels) shall be taken at and around the oil or gas facility site and at the exterior of any neighboring buildings or properties, in conjunction and in accordance with the Director, prior to the commencement of any oil or gas related activities at the site. Measurements shall further be taken at various time intervals, as determined appropriate by the Director, during the exploratory or drilling phases, during well completion, reworking, or stimulation phases, and during operation of the completed well and facilities. Furthermore, measurements may be taken at any time, at the discretion of the Director, if a request to do so is made by any affected person or party, including adjacent residents, community members, and the County, if it is believed that the oil or gas facility is creating noise in excess of the limits provided by this Section, below. All measurements in all phases and instances described above shall be at the expense of the Operator, while the measurements themselves shall be conducted either by the County or by a third party tester contracted with the County.~~

~~(C) Oil and gas operations, construction, and maintenance at any Well or Facility Site,~~

~~production facility, or gas facility shall comply with the following maximum permissible requirements and limits for noise levels created but such facilities: measures at six hundred and fifty (650) feet from the source or at the receptor, unless another standard has been established in a surface use agreement.~~

~~(1) Temporary operations shall be deemed those involving facility and access road construction, drilling of an oil or gas well, pipeline installation or maintenance, well completion, well workover, and well stimulation. The noise levels shall be measured at a distance not to exceed five hundred (500) feet from the noise source. From 7:00 AM to the next 7:00 PM the noise levels shall not exceed seventy (70) dbA. From 7:00 PM to the next 7:00 AM the noise levels shall not exceed sixty five (65) dbA. Noise standards for continuous operations shall apply to all oil or gas operations that operate on a continual (>8 hours/day), long term basis (>3 weeks) in duration. In the hours between 7:00 a.m. and the next 7:00 p.m. the noise levels permitted below may be increased ten (10) db(A) for a period not to exceed fifteen (15) minutes in any one (1) hour period.~~

~~(1)~~

~~(2) Noise standards for temporary operations shall apply to all operations involving Continuous operations shall be deemed those long-term, normal, production operations that occur after completion of the well, excepting instances of a workover or stimulation when such activities do not exceed five consecutive days in duration. The noise levels shall be measured at a distance not to exceed three hundred fifty (350) feet from the noise source. From 7:00 AM to the next 7:00 PM the noise levels shall not exceed fifty (50) dbA. From 7:00 PM to the next 7:00 AM the noise levels shall not exceed forty (40) dbA. ~~pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation.~~~~

Duration	7:00 am to next 7:00 pm	7:00 pm to next 7:00 am
Continuous Operations	60 db(A)	55 db(A)
Temporary Operations	90 db(A)	85 db(A)

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~~(D) The noise limits of Section C above notwithstanding, any noise or vibration emanating from an oil or gas facility that is deemed a nuisance by a neighboring resident, business owner, or property user, the Director shall have the authority to review the matter with or without testing for decibel levels, and to issue a determination of whether or not the noise or vibration from the oil or gas activity shall be reduced or whether or not the activity shall be ceased.~~

~~(E) The exhaust from all engines, motors, coolers and other mechanized equipment, including compressor station fans, shall be vented in a direction away from the closest existing building units or platted subdivision lots.~~

~~6.166.15~~ CHANGE OF OPERATOR

(A) If a permitted facility undergoes a change of Operator or a change of Operator name, the new Operator shall submit a copy of the applicable NMOCD permits to the County within ten (10) business days of the permit for the new Operator being approved by the NMOCD.

(B) The new Operator ~~must shall~~ also present proof of adequate insurance as required by Section 6.20 of this Ordinance, ~~whenif~~ applicable.

~~6.176.16~~ WATER QUALITY AND QUANTITY

(A) No oil or gas exploration or development shall degrade the quality or quantity of ground water or surface water, ~~from by way of~~ the addition of point or non-point source pollution, beyond any and all standards enforced by the New Mexico Water Quality Control Commission pursuant to 20.6 N.M.A.C. *et seq.*

(B) No oil or gas exploration or development shall cause ~~significant~~ degradation in the water quality, quantity, or pressure of any water wells in accordance with the standards of the New Mexico Office of the State Engineer.

(C) No oil or gas exploration or development shall interfere with water access and the operation of infrastructure associated with existing water rights, such as water wells, stock ponds, and acequias (irrigation ditches), and any other associated infrastructure.

~~(C)~~(D) Any applicant or operator who pursues oil or gas exploration or development after receiving approval to do so by the County shall be held accountable for the quality and quantity of all water resources, whether surface waters or below ground waters, whether used or consumed by surface users at the time of the oil or gas activity or not. In the event that any waters used or consumed by surface users at the time of the oil or gas activity are contaminated or reduced in quantity by said oil or gas activity such that the waters become no longer potable, useable, or life-sustaining, then the applicant or operator shall be required to pay for the replacement, in kind and in perpetuity, of the water resources for all persons affected by the loss of the useable and potable water.

~~6.186.17~~ GROUND WATER MONITORING REQUIREMENTS

(A) For all Oil or Gas Wells permitted, by this Ordinance, within a Critical Management Area Overlay Zone District any where anywhere in the County, the Operator, at its own expense, shall be required to drill and maintain a ground water monitoring well, under the supervision of the County and an impartial third-party environmental testing contractor or agency contracted with the County, whose fees shall be paid for in advance by the Applicant, prior to initiating construction of the Oil or Gas Facility or Facilities.

(B) The Director, in the case of ~~development conditional use~~ permits applications, and the

Board of County Commissioners, in the case of special use permit applications, may waive the requirement of the ground water monitoring well, if ~~either determine, the Applicant can demonstrate, in the application, that the proposed site location is sufficiently distant from any water resources such that impact thereon from the oil or gas development would be exceedingly unlikely, the ability of the proposed development to sufficiently protect ground and surface waters, and any other environmental features that may be negatively impacted by the development.~~

(C) The ground water monitoring well shall be constructed, operated, and maintained according to the latest New Mexico Environment Department's Monitoring Well Guidelines in addition to the following standards and requirements:

~~(1) The ground water monitoring well shall be designed and constructed in accordance with the New Mexico Environment Department's Monitoring Well Guidelines (July 2008).~~

~~(1) The ground water monitoring well should be located one hundred (100) horizontal feet away from the Well Pad along the down gradient slope of the ground water as determined by a Professional Hydrologist who is licensed by and in the State of New Mexico, chosen by the County, and paid for by the Applicant.~~

~~(2) Hydrologist.~~

~~(2) The ground water monitoring well shall be drilled, as determined by the Director, either to the first-encountered waterwater, or to the depth of the formation or perforation of the nearest private or mutual domestic water well, and shall be screened to at the depth determined by a Professional Hydrologist, licensed by and in the State of New Mexico, chosen by the County, and paid for by the Applicant.~~

(D) Ground water samples drawn from a ground water monitoring well shall be collected, analyzed, and prepared in the manner described in Section 6.1918(C) of this Ordinance.

6.196.18 GROUND WATER SAMPLING AND REPORTING

(A) As soon as practicable upon completion of the ground water monitoring well, and prior to commencement of construction on the Oil or Gas Facility, the Operator, at its own expense, shall ~~extract submit~~ an initial ground water sample under the supervision of the County and to the third-party environmental testing contractor or agency contracted with the County, whose fees shall be paid for in advance by the Applicant, to be analyzed by the contractor for use in establishing the site-specific baseline ground water quality data prior to development, the results of which shall be duly submitted to the County.

(B) Subsequent ground water samples from the ground water monitoring well shall be collected, analyzed, and submitted to the County in accordance with the foregoing procedure, at a minimum, once every year not later than 30 days after the anniversary date of the completion of the initial baseline testing, for the life of ~~the~~ well, and an additional ground water sample ~~or samples shall be~~ taken one year after the Oil or Gas Well has been designated as plugged and

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abandoned pursuant to NMOCD regulations. ~~The annual ground water monitoring schedule shall be determined by the Director.~~

(C) Ground water samples ~~should~~shall be collected by a qualified environmental consultant, analyzed in a certified laboratory, and should, at a minimum, include the following information:

(1) Field measurements, taken at the Well Site, of the following ~~elements~~:

- (a) depth to groundwater;
- (b) depth of the screen;
- (c) Electrical conductivity level (specific conductance);
- (d) pH-level; and
- (e) temperature.

(2) Laboratory analysis of the following elements:

- (a) total dissolved solids (TDS);
- (b) chloride;
- (c) sulfate;
- (d) nitrate as total nitrogen;
- (e) calcium;
- (f) magnesium;
- (g) sodium;
- (h) volatile organic compounds, using EPA method 8260B; and
- (i) total recoverable petroleum hydrocarbon using EPA method 4181.

(D) The Operator, by way of the third-party environmental tester contracted with the County, whose fees shall be paid for in advance by the Applicant, shall submit a report of the results of the ground water analysis along with a summary of the analysis results which shall be in narrative form and shall describe any change or variation between the baseline ground water quality data and the ground water sample. ~~The Operator shall report summary shall, in the summary to the County, note any increases in the levels of the compounds previously analyzed and reported in concentrations of the compounds analyzed pursuant to Section 6.19(C), and~~

which are above those previously reported.

(D)

6.206.19 INSURANCE REQUIREMENTS FOR OIL AND GAS WELLS AND OTHER FACILITIES WITHIN CRITICAL MANAGEMENT AREA OVERLAY ZONE DISTRICTS

(A) For all Oil and Gas Wells and other facilities permitted within the Critical Management Area known as the Headwaters Overlay Zone District in the Energy Resource Development District, and within any area of the Frontier District, the Operator shall be required to purchase and maintain in force, for the duration of the permit, the active lifetime of the well or facility, until one year after the date of the plugging and abandonment the well, or the closing of the facility, or until all required reclamation has been made successfully, an Environmental Pollution Liability insurance policy.

(B) The Environmental Pollution Liability policy shall, at a minimum, meet the following requirements:

(1) the policy shall be issued by an insurer with a rating of A--Class VIII or better rating by the A, M, Best Key Rating guide, or with such financially sound insurance carriers acceptable to the County;

(2) the County, its officials, employees, agents, and officers shall be endorsed as an additional insured or coinsured on the policy;

(3) all policies shall be written on a claims-made basis with a retroactive date that is the same date as the issuance of the Oil or Gas permit, or a date prior to that issuance date. The policy and the same retroactive date must shall be maintained in force for the duration of the validity of the permit and the life of the well or facility, or until one year after the well is has been plugged and abandoned pursuant to OCD records, or the facility has been closed, or until all required reclamation has been made successfully;

(4) policies shall be maintained in the an amount not less than of at least one ten million dollars (\$10,000,000) per occurrence, with an annual aggregate of not less than at least two twenty million dollars (\$20,000,000), and shall be written to cover, at a minimum, the following occurrences;

(a) Sudden and accidental pollution resulting from the seepage, escape, spill of, or release of smoke, vapors, or fumes of, acids, alkalis, toxic or hazardous chemicals, waste material, or any other irritant, contaminant, or pollutant;

(b) bodily injury;

(c) property damage, including loss of use of damaged property or property that has not been physically injured or destroyed;

(d) cleanup costs;

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(e) legal defense costs, including costs and expenses incurred in the investigation, defense, or settlement of claims.

(5) deductibles shall be listed on the Certificate of Insurance and shall not exceed twenty five two hundred fifty thousand dollars (\$250,000) dollars and shall be on a per occurrence basis;

(6) all policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the County; and

(7) each policy shall be endorsed to provide the County a minimum thirty (30) day notice of cancellation except when the policy is being cancelled for non-payment in which case, ten (10) days advance notice is shall be required.

(C) A separate Environmental Pollution Liability insurance policy shall not be required if environmental pollution liability coverage is included in the Applicant's general liability policy, provided that the provisions of that coverage meet all of the requirements described in this Section. or the policy is reviewed and approved by the Director, the County Attorney, and the County's Risk Management Office.

~~(D) Applicant's representing companies with a net worth of not less than twenty five million dollars (\$25,000,000) as shown in the company's most recent financial statements, may be exempted from the insurance requirements of this Section. The Director may request copies of the company's most recent financial statements to ensure compliance with this provision.~~

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~~(E)(D) Upon request, certified copies of the Environmental Pollution Liability insurance policy shall be submitted to the County prior to the applicant acting on an approved permit. Any failure on the part of the County to request documentation of the required insurance shall not constitute a waiver of the insurance requirement provided in this Section.~~

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ARTICLE 7

FRONTIER DISTRICT: CREATION OF DISTRICT AND GENERAL APPROVAL REQUIREMENTS

7.1 FINDINGS

—The Board hereby finds, declares, and determines as follows:

(A) There may be is potential for oil and gas development in other parts of the County, outside the Energy Resource Development District, such as in the Frontier District. The Frontier District contains the Chama Basin which has been designated as a frontier or wildcat basin. Frontier basins are defined as regions that are currently nonproductive and largely unexplored.

(B) Portions of the surface of the Frontier District contain critical natural resources and habitat for the County, including Critical Management Area Overlay Zone Districts as identified by the Comprehensive Plan. The Frontier District has some of the highest elevation, and

precipitation levels in the County and acts as a natural reservoir, catching precipitation in the high elevations and distributing that water across the County and regions further south of the County via streams, rivers, and aquifer recharge. Both the Headwaters Critical Management Area Overlay Zone District and large portions of the Riparian/ Floodplain Critical Management Area Overlay Zone District are located in the Frontier District and these overlay districts contain essential wildlife habitat such as trout streams, riparian corridors and aquatic habitat, elk calving habitat, and habitat for endangered, threatened, and sensitive species. The Frontier District also contains historical, cultural, and archeological resources, as defined in the Comprehensive Plan, that the County wishes to protect in these areas.

(C) The sensitive habitats and resources found in the Critical Management Area Overlay Zone Districts of the Frontier District are threatened by all forms of development, not just oil and gas development. However, new development that is sustainable, compatible with, and poses little risk to the surrounding environment can play an important role in providing residents with economic opportunity and can contribute to the overall economic viability of the County. Oil and gas development does not meet these criteria.

(D) The County recognizes that oil and gas development will may expand into areas outside of the Energy Resource Development District and into the Frontier District. The County also recognizes ~~that the it is the right and~~ economic interests of private Surface Property Owners and mineral ~~right-estate~~ owners to develop hydrocarbons mineral rights, and that the development of these resources ~~can may~~ provide County residents with jobs and economic opportunity, and that taxes received from oil and gas development can be a significant source of revenue for the County. As directed by the Comprehensive Plan, the County intends that this Ordinance will foster sustainable economic opportunity for County residents of the Frontier District, through oil and gas development, and at the same time protect unique and essential natural resources, habitat, and wildlife from the potential impacts of that development.

(E) In order to accomplish these objectives, there is created by the Ordinance, the Frontier District overlay zone, the boundaries for which are ~~described shown~~ in Exhibit A attached hereto. ~~Exploratory oil and gas activities and development within the Frontier District, which do not involve drilling,~~ shall be subject to a Special Use Permit application n-exploratory permit approval process and subsequent ~~notice~~ To Proceed, as set forth in this Ordinance and subject to ~~those~~ the regulations ~~also set forth inof~~ this Ordinance. ~~All other oil and gas development in the Frontier District shall be subject to a special use permitting process, as set forth in this Ordinance and subject to those regulations also set forth in this Ordinance.~~

(F) In order to promote the efficient and cost-effective review and consideration of applications for special use permits in accordance with the purposes and goals of this Ordinance, the County encourages Applicants for special use permits to avail themselves of the procedures provided herein for the submission of combined applications for special use permits where Applicants intend to explore or develop oil and gas resources with multiple Oil or Gas Wells as part of a coordinated plan that may be implemented in one or multiple phases.

7.2 CREATION OF DISTRICT

The Frontier District is hereby ~~created created~~ the Frontier District, the and boundaries its

boundaries for which are shown, as amended, on Exhibit A attached hereto.;

7.3 AREA AND BOUNDARY OF DISTRICT

(A) The area of the County included within the Frontier District overlay zone is ~~fully described—shown, as amended,~~ on Exhibit A attached hereto, which exhibit is hereby incorporated into this Ordinance by this reference. The Official Zoning Map of the County is hereby amended to include and reflect the designation and boundary of the Frontier District overlay zone. ~~The Official Zoning Map of the County is hereby amended to include and reflect the designation and boundary of the Frontier District overlay zone.~~

(B) Where the Frontier District boundary line intersects a parcel of fee privately-owned surface property, the entire ~~fee~~ surface property shall be considered within the Energy Resource Development District, not within the Frontier District.

~~(B)~~

7.4 DEVELOPMENT PERMITTED **AND PROHIBITED** WITHIN THE FRONTIER DISTRICT

(A) Oil and gas exploration and development, within the Frontier District, shall be considered as an industrial land use (Class III) in accordance with Article II Section IV of the Rio Arriba County Design and Development Regulation System Ordinance 2009-09.

(B) No Oil or Gas Exploration or Facility development shall be constructed or operated ~~anywhere in the County,~~ within the Frontier District, unless a special use permit has been approved and granted by the Board of County Commissioners through public review, and a subsequent notice to proceed for such Oil or Gas Facility has been issued administratively by the Director, all has been approved and granted in accordance with this Ordinance.

(C) No Oil or Gas Facility shall be permitted within the Frontier District unless said facility complies with the requirements set forth in the relevant sections of the County's Design and Development Regulation System Ordinance, in addition to the requirements set forth in this Oil and Gas Ordinance.

(D) No Oil or Gas Facility shall be constructed on land with a slope gradient of eight (8) percent or greater.

(E) No Oil or Gas Facility shall be permitted within the Irrigated Agricultural Overlay Zoning District (IAOZD), the Riparian Floodplain Overlay Zoning District (RFOZD), and the Headwaters Overlay Zoning District (HOZD), the County's three Critical Management Areas which contain environmentally sensitive land, resources, and uses, as those districts are defined and mapped in the County's Design and Development Regulation System.

(F) No Oil or Gas Facility shall be permitted within a floodplain as mapped and designated by the Federal Emergency Management Agency (FEMA).

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~~(G) No Oil or Gas Facility shall be permitted to any applicant that has current outstanding violations at an existing facility under its ownership or management anywhere in the United States or that has a work history indicating excessive violations or accidents.~~

~~(H) No or Gas Facility shall be permitted to any applicant that has any land under its ownership or management that is awaiting required reclamation.~~

~~(B)(1) No Oil or Gas Facility shall be permitted on farm land used for the growing of agricultural crops raised for the use and consumption of humans and animals, whether said lands are watered by irrigation or by any other means.~~

~~(C) No exploratory activities related to oil or gas development shall be permitted anywhere within County, unless an exploratory permit for such activities has been approved by the Director in accordance with this Ordinance.~~

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7.5 PRE-APPLICATION MEETING

~~No less than thirty (30) days prior to the submission of an application for a special use permit within the Frontier District, the Applicant shall meet with the Director and such other employees, representatives or consultants of the County as the Director deems appropriate, in order to discuss the anticipated submission of the application, including, but not limited to, a general discussion of the application process, the materials to be included in the application, the coordination of the required Onsite Visit, and the manner in which the Applicant intends to comply with the requirements for the submission and processing of its application. The fee for this meeting, to be paid by the Applicant in advance, shall be two hundred fifty dollars (\$250.00).~~

7.6 ONSITE VISIT

(A) All special use permit applications require an Onsite Visit to be arranged and conducted by the Operator in conjunction with the Director prior to the consideration of the application.

(B) Prior to the Onsite Visit, the Operator shall flag all proposed access roads along the center line, and stake, with wooden staking, the proposed Oil or Gas Well or Facility Site, four (4) locations where photographs have been taken from the four cardinal directions, with each location being two-hundred (200) feet from the Site, two (2), two-hundred (200) foot directional reference stakes from the Well Site, the exterior dimensions of the proposed drill pad, proposed cuts and fills, and the outer limits of the area proposed to be disturbed. The applicant shall pay to the County a fee of five hundred dollars (\$ 500) prior to the Onsite Visit.

7.7 REVIEW PROCESS AND CRITERIA FOR SPECIAL USE PERMITS

(A) ~~Onee-After~~ the Pre-application Meeting and the Onsite Visit have been held, the Applicant may submit their application to the County. The application for a special use permit

shall be processed, including the procedure for determining application completeness, and reviewed ~~as per~~pursuant to the procedures set forth in ~~Article II, Section VI of~~ the Rio Arriba County Design and Development Regulation System Ordinance ~~2009-09~~.

(B) In addition to the goals, policies, and assessment criteria listed in the Rio Arriba County Design and Development Regulation System Ordinance ~~2009-09~~ and the Comprehensive Plan, the following additional assessment criteria shall be used in the consideration of an application for a special use permits for oil or gas exploration or development:

- (1) Extent and feasibility of compliance with the design and performance standards, and all other related provisions and requirements of this Ordinance;
- (2) the proposed Best Management Practices and mitigation measures; and
- (3) any Surface Use Agreement between the Surface Property Owner and the Operator.

7.8 COMBINATION OF APPLICATIONS FOR MULTIPLE SPECIAL USE PERMITS

(A) Applicants for special use permits ~~are encouraged to~~may ~~combine applications for special use permits, have multiple applications to be~~ reviewed and considered simultaneously for approval under this Ordinance where the simultaneous submission, review, and consideration of combined applications, ~~that encompass~~involving multiple Oil or Gas Facilities and Well Sites, would satisfy and promote the following goals:

(1) The Oil and Gas Facilities ~~that would be subject to such combined applications are intended to explore or develop a resource in such a manner that the facilities~~ are expected to be constructed and developed simultaneously or in phases as part of a coordinated plan.

(2) The Oil and Gas Facilities are located within the same size of geographic area ~~in which such Oil and Gas Facilities are proposed to be located is such that simultaneous review and consideration of combined applications for such facilities can be effectively and efficiently accomplished and in a manner that is consistent with the purposes, goals, and provisions of this Ordinance, as determined by the Director.~~

(3) The Oil and Gas Facilities are few enough in number, as determined by the Director, to facilitate a timely and efficient review of the applications. ~~number of proposed Oil and Gas Facilities is of a number that the simultaneous review and consideration of combined applications for such facilities can be effectively and efficiently accomplished and in a manner that is consistent with the purposes, goals and provisions of this Ordinance.~~

(4) The impacts associated with such Oil and Gas Facilities ~~are or~~ may be cumulative in nature such that ~~they can be effectively and efficiently reviewed and considered in a manner that is consistent with the purposes, goals and provisions of this Ordinance.~~

(B) Whether or not applications for special use permits may be combined shall be discussed at the pre-application meeting. The Director shall have the discretion in determining whether applications for special use permits may be combined as provided by this section.

(C) In cases where applications for special use permits are combined in accordance with this Section, the Applicant may, where practicable, consolidate ~~versions of the special use permit~~ application submittal requirements so long as there is adequate information presented about each individual Oil or Gas Well or Facility ~~combined within the special use permit application~~ so that the impact of ~~that each~~ individual Oil or Gas Well or Facility can be ~~reasonably accurately~~ assessed.

(D) In cases where applications for special use permits are combined and receive simultaneous review and consideration, the subsequent notice to proceed ~~permit applications~~ must for each individual Oil or Gas Well or Facility shall be filed separately for each individual Oil or Gas Well that was encompassed within the combined special use permit application. Notices to proceed may therefore be issued separately and at different times for ~~the different~~each individual Oil and Gas Well or Facility ~~s for which a special use permit has been granted as part of a combined application.~~

7.9 NOTICE TO PROCEED

(A) Upon the approval and granting of a ~~special use~~ permit, the Applicant may apply for a notice ~~(s)~~ to proceed for any ~~number of~~ Oil or Gas Well or Facilitys approved under that ~~special use~~ permit application. An application for a notice to proceed may be made at any time ~~for while the duration of the special use permit remains valid, prior to its provided that the special use permit has not expired expiration, or been unless it has been~~ revoked, ~~and is still valid.~~

~~(B)~~—An application for a notice to proceed shall be made using ~~the an~~ application form ~~(s)~~ provided to be prepared and approved by the Director.

~~(C)~~(B) _____

~~(D)~~—~~In addition to~~Together with the application for a notice to proceed, the Applicant shall submit adequate documentation to the Director demonstrating compliance with any conditions of approval ~~associated with the approval and granting of the special use permit.~~

~~(E)~~(C) _____

~~(F)~~—Within fifteen (15) calendar days of the application and ~~application materials~~supporting documentation being submitted, the Director shall verify that the conditions of approval have been satisfied and shall either grant or deny the application for notice to proceed and shall provide the Applicant with a written notice of the decision.

~~(G)~~(D) _____

~~(E)~~ Each individual Oil or Gas Well or Facility approved under the ~~special use~~ permit shall have a unique notice to proceed attached ~~thereto~~it. If an Operator is found to be non-compliant with the design and development standards ~~of~~this Ordinance, or with any of the requirements herein, the notice to proceed for that non-compliant Oil or Gas Well or Facility shall be revoked and that Oil or Gas Well or Facility shall no longer be legally authorized to operate.

~~(H)~~—

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7.10 REFERRALS

The Director may refer an application to other government agencies, cities, counties or entities having a statutory or regulatory interest in the matter, or who are otherwise affected by the application, for review and comment. The application review process shall not necessarily be delayed pending review or commentary from a referral agency if that agency does not respond in a timely manner, as determined by the Director.~~be delayed pending review or commentary from a referral agency(ies).~~

~~7.11~~ CONSULTANTS

~~7.11.~~

If the Director determines that the application for a permit may present a negative impact on archeological, cultural, or historical resources, ground or surface water quality and quantity, air quality, soil quality, or any other aspect of the natural, built or improved environment, the Director may, at the expense of the Applicant, hire experts to review an application or to evaluate specific technical issues related to the aforementioned resources. If the Director determines that the County should retain such experts, the Director shall notify the Applicant and shall select an independent contractor who is expert in the relevant field. The Applicant shall pay to the County an initial security retainer fee of five thousand dollars (\$5,000.00) by certified check or bank check, to cover the County's expenses incurred to engage such consultants and experts as the Director considers necessary and appropriate. Any amount of the retainer fee not ultimately required shall be returned to the applicant. Any additional amount, beyond the amount of the retainer fee that may be required to cover the costs of the consultants shall be paid by the applicant prior to the completion of the consultant's assessment.

~~If the Director determines that the application for a development permit may present a negative impact on archeological resources, ground or surface water quality, or the environment, the Director may, at the expense of the Applicant, hire experts to review an application or to evaluate specific technical issues related to archeological resources, surface or ground water quality or the environment. If the Director determines that the County should retain such experts, the Director shall notify the Applicant and the Applicant shall have the opportunity to provide recommendations of experts to the County. The Applicant shall make a company check, cash, certified or bank check, or letter of credit, deposit in an amount to be determined by the Director for each application submitted, to cover all of the County's expenses incurred to engage such consultants and experts as the Director considers necessary and appropriate.~~

7.12 OTHER AUTHORIZATIONS

The Applicant shall proceed concurrently with other necessary regulatory approvals, such as those reviewed by the NMOCD, BLM and other applicable regulatory agencies, at the same time that its application for a permit with the County is under review. In no event shall the County conduct its final review, hold public hearings, or issue a decision on an application until all other required applications with other regulatory agencies have been filed, and the County has been provided with copies of said applications.

~~The Applicant may proceed with other necessary regulatory approvals with the NMOCD and other applicable regulatory agencies concurrently with the filing of an application for a special~~

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~~use permit with the County.~~

7.13 AUTHORITY

~~(A) The Board of County Commissioners is granted the authority to approve and grant, or to deny a permit in accordance with the requirements and standards of this Ordinance.~~

~~(B) The Board of County Commissioners is granted the authority to impose any conditions and additional fees in the granting of any permit as deemed necessary to carry out the intent and purpose, and to implement the requirements and standards of this Ordinance, to protect the public health, safety and welfare, and to ensure that any permit, when implemented, complies with the criteria for the granting of a permit, and complies with any mitigation measures required or approved with a permit.~~

~~(C) Prior to the issuance of any permit, a County Business License shall be obtained, in accordance with all applicable provisions for such licenses as enumerated in the most current amendment to Rio Arriba County Design & Development Regulation System, by each and every businesses involved in carrying out the work associated with an oil and gas exploratory or development permit, including but not limited to the Mineral Estate Owner, oil and gas facilities Operator, and all individual businesses subcontracted by the Owner or Operator for the various functions and phases of the development or exploratory operation, including the application phase of the project. The fee for the business license shall not be that which is enumerated in the Rio Arriba County Design & Development Regulation System, but shall be in the amount of \$100 for a business whose main headquarters are located within the County, and \$1,000 for a business whose main headquarters are located outside of the County. If the location of the business's main headquarters appears questionable to the Director, then the Director may seek additional information and shall make the final determination of where the business's main headquarters are located.~~

~~(A) The Board of County Commissioners is granted the authority to approve and grant a special use permit in accordance with the requirements and standards of this Ordinance.~~

~~(B) The Board of County Commissioners is granted the authority to impose any conditions, in the approval and granting of any special use permit as necessary to carry out the intent and purpose, and to implement the requirements and standards, of this Ordinance, to protect the public health and welfare, and to ensure that any special use permit, when implemented, complies with the criteria for the approval and granting of a special use permit.~~

7.14 EFFECT OF APPROVALS

~~When a permit has been granted for an Oil or Gas Facility or Facilities, in accordance with this Ordinance, such permit, together with all other required County permits, including a Notice to Proceed issued by the Director after the satisfaction of any prerequisite conditions of the approval, shall constitute sufficient authority for the commencement of the approved oil or gas exploration or development.~~

~~When a special use permit has been granted for an oil or gas development within the Frontier District, in accordance with this Ordinance, such special use permit and subsequent notice to~~

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~~proceed, together with any other required County permits and any conditions associated therewith, shall constitute sufficient authority for commencement of drilling, operation, production, maintenance, repair and testing and all other usual and customary activities associated with oil and gas development.~~

7.15 APPLICATION FEES

~~Each application shall be accompanied by a nonrefundable application fee in the amount set forth below. The application fee shall be paid by cashier's check or bank check. The Board shall have the authority to adjust from time to time the fees set forth in this Section.~~

~~Application Fee: One thousand dollars (\$1,000.00) for an applicant whose main headquarters are located within the County; Seven thousand five hundred dollars (\$7,500.00) for an applicant whose main headquarters are located outside the County. In cases of questionable headquarters location, the final determination shall be at the discretion of the Director.~~

~~Each application shall be accompanied by a nonrefundable application fee in the amount set forth. The application fee shall be paid by company cashier's check, wire transfer or certified funds. The Board shall have authority to adjust from time to time the fees set forth:~~

- ~~(A) Special Use Permit Seventy five dollars (\$75.00)~~
- ~~(B) Notice to Proceed Fifty dollars (\$50.00)~~

7.16 APPEAL

~~(A) The decision by the Director to approve or deny an exploratory permit or notice to proceed is subject to appeal in the same manner and in accordance with the procedures outlined in the Rio Arriba County Design and Development Regulation System Ordinance 2009-09.~~

~~The decision by the Board of County Commissioners to approve or deny a special use permit is subject to appeal in the same manner and in accordance with the procedures outlined in the Rio Arriba County Design and Development Regulation System Ordinance 2009-09.~~

7.17 EXPIRATION OF SPECIAL USE PERMIT

~~A special use permit issued pursuant to this Ordinance shall expire if the exploratory activities or the construction of the Oil or Gas Facility is not commenced within two (2) years of the date on which the permit was issued. In the event that the decision to approve a permit is appealed, and the appeal is unsuccessful, the commencement of the two (2) year period shall begin on the date that the appeal is finally denied, or the expiration date of any subsequent appeal periods.~~

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~~A special use permit issued pursuant to this Ordinance shall expire if construction of at least one of the Oil or Gas Facilities approved under the special use permit has not commenced within~~

~~three (3) years of the date on which the special use permit was approved by the Board. This three (3) year period shall be tolled pending the exhaustion of any administrative and judicial appeals.~~

7.18 ACTIVITIES FOR WHICH APPROVAL IS NOT REQUIRED WITHIN THE FRONTIER DISTRICT

The following activities ~~do shall~~ not require the issuance of ~~an exploratory permit or a~~ special use permit under this Ordinance:

(A) Mapping or surveying activities that do not cause or result in any disturbance of the land; ~~and-~~

~~(B) Any planning activities that do not disturb the land or adjacent properties.~~

~~(B)~~

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ARTICLE 8

SPECIAL USE PERMIT APPLICATION CONTENTS AND SUBMITTALS

8.1 GENERAL SUBMITTALS

Applications for a special use permit for ~~an~~ oil or gas exploration or development within the Frontier District shall be made by completing and submitting an application form(s) ~~that will be prepared and approved~~ provided by the Director and will shall also include the following required additional information and submittals:

~~(F) All information and submittals required under Article 5 of this Ordinance, excepting Section 5.1(W). Proof of compliance with the Surface Owners' Protection Act ("SOPA"), N.M.S.A. 1978, § 70-12-1 (2007). Proof of compliance may be satisfied by submitting a copy of the Surface Use Agreement or a letter signed by the applicant statement, the Surface Property Owner stating the Operator has complied with SOPA or proof of bonding as required by SOPA.~~

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~~(A)~~

~~(A) A vicinity map of the Well or Facility Site, drawn at a scale 1:2000 feet and depicting the following features:~~

~~(1) section, township, range;~~

~~(2) Well or Facility Site boundary;~~

~~(3) north arrow and scale;~~

~~(4) major geographic features such as, slopes, drainage areas, and floodplains;~~

~~(5) major surface water features;~~

~~(6) topographic features;~~

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~~(7) — all state, county and private roads, existing and proposed access, and existing proposed pipeline routes, including gathering lines and transmission lines;~~

~~(8) — the location of all fire, police, and emergency response service facilities. If these facilities are not located on the vicinity map, the Applicant shall provide the contact information, address, direction, and mileage to the nearest emergency response service facility.~~

~~(B) — A copy of the Operator's County Business License, where applicable.~~

~~(D) — A site plan of the Well or Facility Site with the following information, if not already required by a permitting agency:~~

~~(1) — north arrow and scale;~~

~~(2) — the location, size, and orientation of existing and proposed structures and facilities;~~

~~(3) — recorded utility and access easements;~~

~~(4) — existing water wells;~~

~~(5) — all surface water features.~~

~~(C) — A photograph of the Well or Facility Site which clearly depicts the physical condition of the Well Site from all four coordinate directions.~~

~~(G) — A Surface Disturbance Plan submitted in accordance with Section 5.2 of this Ordinance.~~

~~(H) — A Visual Mitigation Plan submitted in accordance with Section 5.3 of this Ordinance.~~

~~(I) — Emergency Response Information submitted in accordance with Section 5.4 of this Ordinance.~~

~~(J) — A description of the source and access route for all water anticipated for use during development and operation of the oil or gas development, and the disposal location and transportation method for produced water.~~

~~(K) — A solid waste management plan including a description of anticipated solid wastes to be created during development and operation of the oil or gas development and the proposed disposal location and method of transportation.~~

~~(L) — An Environmental Report prepared in accordance with Section 8.2 of this Ordinance;~~

~~(B)~~

~~(M) — The following information regarding the Applicant and the Operator of the proposed Oil or Gas Facility:~~

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~~(1) name, business address and telephone numbers of the Applicant and Operator responsible for proposed Oil or Gas Facilities;~~

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~~(2) the name, title, address and telephone numbers of those persons appointed by the Applicant to serve as the contact persons with the County for purposes pertaining to the submission and processing of the Applicant, including, if applicable, a description of the areas or issues for which each such person is responsible.~~

~~(N) Copies of all applicable NMOCD documents to be filed in conjunction with the proposed Oil or Gas Facility, provided upon the Director's request.~~

~~(C) Proof of insurance as required in Section 6.20 of this Ordinance. Proof of contract with a water supplier and proof of water rights assignment from the State of New Mexico.~~

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~~(D) A traffic impact report including an assessment of the current traffic counts at various times of day and various seasons, an assessment of current Levels of Service for all roads and intersections that will be used to facilitate the oil and gas activity, the anticipated traffic increase and its impact on the existing conditions and Levels of Service.~~

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~~(E) Proof of contract for waste disposal at a facility licensed to handle and process hazardous wastes for all produced water, brine and other similar by-products used for or created by developing the oil or gas well or facility, and location where the facility will dispose the material.~~

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~~(F) An Employee Impact Plan which shall include the following information:~~

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~~(1) Anticipated total number of employees required for each phase of oil or gas exploration and development;~~

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~~(2) Anticipated number of new employees for each phase of oil or gas exploration and development;~~

~~(3) Anticipated number of employees (new and current) who reside in Rio Arriba County;~~

~~(4) Current town of residency for each employee anticipated to work at the proposed oil or gas exploration, well or facility site;~~

~~(5) Anticipated housing location for each employee for each phase of the oil or gas exploration and development;~~

~~(6) The number of vehicles, for commuting and for working, anticipated to be used per number of employees;~~

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~~(O) All additional submittals required for any oil or gas facility in the Frontier Overlay Zoning District (FOZD) as set forth in the County's Design and Development Regulation System Ordinance.~~

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(G)

~~(P)~~(H) Such additional information as is required by the Director to determine the application's and the proposed development's compliance with this Ordinance.

8.2 ENVIRONMENTAL REPORT

(A) ~~For the purposes of this Ordinance, t~~The Environmental Report shall ~~use be similar in the~~ format ~~to of the an~~ Environmental Assessment ~~as described in pursuant to~~ the National Energy Policy Act ("~~NEPA~~", 40 CFR 1508.9). ~~The information used to compile the environmental report should shall~~ be gathered from the appropriate Federal and State agencies ~~and the Applicant may also consult data and information compiled by the local surface including management agency, such sources~~ as the BLM's Resource Management Plan or the USDA Forest Service's Forest Plan.

(B) ~~Organized by section, t~~The Environmental Report ~~should shall~~ be a narrative, ~~organized into sections by category or topic,~~ that identifies, based on the available Federal and State data, existing soil, water, air, and habitat quality, and ~~should shall~~ discuss all possible environmental impacts of the proposed development, the proposed development alternatives, the proposed mitigation measures for the development, and the cumulative impacts the development may have on the environment over the life cycle of the development. The Environmental Report shall discuss, at a minimum, the following:

(1) A wildlife and habitat quality report containing, at a minimum:

(a) An inventory of sensitive, threatened, and endangered species found in the area, as identified on both Federal and State registries.

(b) A review of whether or not the development is located in a ~~key special wildlife~~ conservation area, ~~or part of a special seasonal, migration, or reproduction area,~~ as mapped and defined by the New Mexico Department of Game and Fish and the United States Fish and Wildlife Service.

(c) An analysis of how the development will impact ~~other all~~ wildlife and habitat in the area including a discussion of how the development might contribute to local habitat degradation, fragmentation and loss.

(d) A description of rangeland quality.

(2) A hydrologic~~al~~ report containing, at a minimum:

(a) a description of the local hydrology and water quality as established by the New Mexico Office of the State Engineer, any available ~~earth~~well data, the Rio Chama Regional Water Plan, the Jemez y Sangre Regional Water Plan, and or the United States Army Corps of Engineers; ~~and~~

~~(b) depth to ground water and a description of the geology existing between the~~

~~surface and first ground water; and~~

~~(e)(b)~~ a depiction of all possible contaminant pathways leading from the Well Site to surface and ground water within ~~one and a half (1.5) miles~~ of the Well Site. This depiction should include pathways leading to all down-gradient ~~surface~~ water courses (~~perennial, intermittent, and ephemeral~~) within ~~one and a half (1.5) miles~~ of the Well Site and any down-gradient ground water located ~~3,500 feet or fewer below the surface~~, measured at a depth to ground water of less than or up to five hundred (500) feet.

(3) A ~~description of~~ local air quality ~~report, in accordance with the guidelines of as defined by~~ the New Mexico Air Quality Bureau and the United States Environmental Protection Agency, and an analysis of the project's anticipated impacts on local air quality. ~~Additionally, the report shall include the results of up-to-date, baseline, pre-development testing of the air quality at and surrounding the site, and at any dwelling, business, or farm within one and a half (1.5) miles from the proposed site, performed at the applicant's expense, and in a comparable manner to, and with similar target elements as those described under Section 6.18 ("Ground Water Sampling and Reporting") together with any additional elements recommended by the consultant performing the laboratory analysis, in conjunction with, and as approved by the County. After the completion of an approved oil or gas facility the applicant shall pay for updated testing to be performed not less than once annually, and within 30 days after the anniversary date of the facility completion, and the consulting tester shall submit the results to the County. The County shall have the authority to require additional, intra-annual testing if concern of excess emissions or pollution is brought to the County's attention by an affected property owner.~~

(4) A soil survey, including a description of soil types and prevalence as determined by the Natural Resource Conservation Service and an analysis of the ability of the soil to support the proposed development, and of the project's anticipated impacts on soil. ~~Additionally, for any facility site located within or immediately adjacent to lands used for grazing of livestock, the soil report shall include the results of up-to-date, baseline, pre-development testing of the soil, performed at the applicant's expense, and in a comparable manner to, and with similar target elements as those described under Section 6.18 ("Ground Water Sampling and Reporting") together with any additional elements recommended by the consultant performing the laboratory analysis, in conjunction with, and as approved by the County. After the completion of an approved oil or gas facility the applicant shall pay for updated testing to be performed not less than once annually, and within 30 days after the anniversary date of the facility completion, and the consulting tester shall submit the results to the County. The County shall have the authority to require additional, intra-annual testing if concern of spilling or contamination is brought to the County's attention by an affected property owner.~~

~~(4)(5)~~ A geological report showing, describing, labeling and dimensioning the subsurface formations, strata, and aquifers from the ground surface down to the depth of the target formation or to any currently utilized aquifers, whichever is further distant from the surface. If there is any formation or stratum that would serve as an impermeable protective layer between the target formation and an aquifer, such formation or stratum shall be thus labeled.

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(5)(6) A discussion of designated historical, cultural, and archeological resources, ~~if applicable, and the proposed development's impact thereon.~~

(C) A discussion of all proposed preventative and mitigation techniques to be used.

ARTICLE 9

DESIGN AND DEVELOPMENT STANDARDS FOR OIL AND GAS EXPLORATION AND DEVELOPMENT WITHIN THE FRONTIER DISTRICT

9.1 GENERAL REQUIREMENTS

(A) All drilling and other operations conducted at an Oil or Gas Facility or construction of structures associated with, or serving an Oil or Gas Facility, for which a special use permit are required, shall strictly comply with the requirements of ~~Article 6 and this Article, Article 9,~~ of this Ordinance and shall be conducted at all times in accordance with the Best Management Practices of a reasonable and prudent Operator.

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(B) For any oil or gas facility located within the Frontier Overlay Zoning District (FOZD), the applicant shall also comply with the additional relevant standards set forth in the County's Design and Development Regulation System Ordinance.

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(C) An Applicant for an oil or gas facility located on any privately-owned surface land within any portion of the Frontier Overlay Zoning District shall comply with the Insurance Requirements of Section 6.20 of this Ordinance.

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(D) In addition to the requirements of this Article (9), all oil or gas activities and facilities shall comply with all requirements of Article 6 of this Ordinance, except as expressly stated otherwise in Article 6 or in this Article (9).

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(E) The total time allowed for drilling shall be limited to thirty (30) days, at which time drilling shall cease and a respite period of thirty (30) days shall be observed prior to the recommencement of drilling and the repeating of the thirty (30) day drilling limit and thirty (30) day respite cycle.

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(F) No well-stimulation operations, including Hydraulic Fracturing, shall occur between 7:00 PM and the next 7:00 AM, nor shall such operations occur at any time on any Sunday.

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(G) The well-stimulation method of Hydraulic Fracturing shall only be permitted if the fracturing and its down-hole location can meet the setbacks and other requirements of Article 6 and this Article (9), and if the Geological report can clearly demonstrate the existence of an impermeable barrier formation between the target formation and a currently utilized aquifer that would, beyond any reasonable doubt, prevent any seepage or migration of natural gas, methane, or fracking fluid chemical additives into the aquifer.

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(H) The injection of produced water, brine, or any other waste by-product of oil or gas

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drilling or production into a subsurface reservoir or formation for storage or disposal shall be prohibited.

(I) The number of trips made by heavy equipment vehicles, and vehicles transporting hazardous materials or any fluids, including fuel, water, produced water, brine, or other waste products from the drilling or production process, shall be limited to one (1) every half hour, and shall not exceed twelve (24) trips in any one day, between the hours of 7:00 AM and the next 7:00 PM. Trips by such vehicles between the hours of 7:00 PM and the next 7:00 AM shall be prohibited, except for express emergency response purposes. For the purposes of this provision, one (1) trip shall mean either the arrival or the departure of the vehicle, but not both the arrival and departure in combination (i.e., when a truck arrives at the site, that constitutes one (1) trip; when the same trucks leaves the site, that constitutes a second and separate trip).

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(J) Not fewer than two fifths (2/5) of on-site facility employees during temporary phases of development such as exploration, site preparation, access-way and facility construction, drilling, well completion, maintenance, work-overs, and reclamation, shall be current residents of Rio Arriba County and shall reside not greater than sixty (60) linear, commuting, road miles from the facility site.

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(K) For all permanent, long-term employment positions required during the normal operating and producing life of the oil or gas well, or other oil or gas facility, for which not less than half of the total hours worked in a normal, average work week is spent in the field performing routine maintenance, monitoring, or operation of oil or gas facilities, 100% of the operator's employees for such positions shall be current residents of Rio Arriba County and shall reside not greater than sixty (60) linear, commuting road miles from the furthest facility site that the employee will be servicing.

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(L) In any area determined to be a wildlife migration route, seasonal habitat or reproductive grounds (such as a calving area for elk or deer) based on the information provided in the applicant's Environmental Report or from other reputable data sources, as determined by the County, drilling, stimulation, completion, workovers, and any other temporary, excessively disruptive work other than normal oil and gas production, shall be prohibited during the months of the season used by the wildlife for one or more of the aforementioned purposes.

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(M) During any heavy, natural, surface run-off event, such as those caused by a monsoon rain-storm, or spring melt-waters, all drilling, stimulation, completion, workovers, transportation of hazardous materials or wastes, and any other temporary work, other than normal oil and gas production, that possesses a risk of spilling contaminants shall be prohibited.

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~~9.2 WATER MONITORING REQUIREMENTS FOR THE FRONTIER DISTRICT~~

~~(A) For all Oil and Gas Wells permitted within the Frontier Basin District, from which the depth to ground water is measured at one hundred (100) feet or less from the bottom of pit or the below grade tank, whichever is lower, the Operator shall be required to drill and maintain a water monitoring well prior to initiating construction of the Oil or Gas Facility or Facilities.~~

~~(B) The water monitoring well shall be constructed, operated, and maintained according to the standards and requirements set forth in Section 6.18 of this Ordinance.~~

~~(C) All ground water sampling shall be conducted according to the schedule and requirements set forth in Section 6.19(C) of this Ordinance.~~

~~(D) If the depth to ground water cannot be determined based on existing data, the Applicant shall be required to drill a temporary bore hole, of minimum diameter size necessary, prior to consideration of the application to prove the depth to ground water. If ground water has not been reached once the temporary bore hole has been drilled to one hundred (100) feet, the Applicant will not be required to drill the bore hole deeper. (reconcile so it is a condition of approval)~~

~~(E) As soon as practicable, after the temporary bore hole has been drilled to one hundred (100) feet, or first ground water has been reached in the temporary bore hole, the Applicant shall submit to the County a summary of the drilling results which shall be prepared by a qualified environmental consultant and, at a minimum, include the following information:~~

- ~~(1) a depiction the location of the temporary borehole on the site map;~~
- ~~(2) a copy of the ground water monitoring well (construction) log, where available;~~
- ~~(3) a copy of the lithologic log, where available; and~~

~~the depth to ground water or final depth of the temporary bore hole if ground water is not reached.~~

9.2 RENEWABLE ENERGY TRANSITION REQUIREMENTS

(A) For each and every occupied dwelling located within one and a half (1.5) miles from the oil or gas facility site, the applicant shall provide funding and installation of an individualized solar energy systems, one system for each such dwelling.

(B) Each solar energy system shall be of sufficient quality to endure for not less than twenty five (25) years and shall be of sufficient capacity to provide one hundred (100) per cent of the energy needs of each individual household, including all energy needs currently met by non-electrical sources, such as propane or natural gas.

(C) System capacity required shall be based on usage records for the twelve months preceding the time of system design, prior to installation.

(D) The applicant shall commence the installation of the first solar energy system prior to drilling of the oil or gas well, or prior to construction of a facility that is not directly connected, associated with, or located on the same surface pad as an oil or gas well (such as a compressor station). Each subsequent required solar energy systems shall be installed within five (5) weekdays after the completion of the previous installation.

(E) Documentation of each installation, including design plans, capacity rating, past usage records and written notice from the subject property owner or lessee that the system is installed and functioning shall be submitted as each becomes available to the Director.

(F) The foregoing shall not be construed as to require the applicant to be responsible for any routine maintenance associated with the solar energy system, unless the applicant itself is the contractor of installation of the system.

ARTICLE 10 ENFORCEMENT

10.1 VIOLATIONS, ENFORCEMENT, PENALTIES

~~(A) It shall be unlawful to engage in any exploratory activities related to oil or gas anywhere within the County without an approved exploratory permit.~~

~~(B)~~(A) It shall be unlawful to engage in any exploratory activities or to construct, install, or operate or cause to be constructed, installed, or operated any Oil or Gas Facility or Facilities in the County without (a) the issuance of a development conditional use permit for any Oil or Gas Facilities that are located in the Energy Resource Development District, or (b) ~~or~~ the issuance of a special use permit for any Oil or Gas Facilities located in the Frontier District.

~~(C)~~(B) Any Operator, person, firm, corporation or legal entity that violates any provision of this Ordinance, any provision or condition of any special use permit or development conditional use permit for an Oil or Gas Facility or Facilities or a valid directive or order of the Director, whether or not the violation is accidental, unintended, or unknown, shall be subject to the penalties set forth in Article III, Section I of the Rio Arriba County Design and Development Regulation System Ordinance 2009-09, except that the amount of the fine for the violation of any provision of this Ordinance shall be \$17,000 for each day that the violation persists.

ARTICLE 11 APPLICATION FOR VARIANCE

11.1 GENERAL PROVISION

Applications for a variance ~~of from~~ any of the standards associated with any permit contained within or provisions of this Ordinance shall be submitted in accordance with Article II, Section VI of the Rio Arriba County Design and Development Regulation System Ordinance 2009-09.

ARTICLE 12 APPEALS

12.1 GENERAL PROVISION

Any person or applicant aggrieved by a formal decision of the Director-County under this Ordinance may appeal the decision in accordance with Article III, Section II of the Rio Arriba County Design and Development Regulation System Ordinance ~~2009-09~~.

ARTICLE 13 NONCONFORMING USES

13.1 NONCONFORMITIES

Within the County, there are Oil or Gas Facilities that were legally established and existing before the effective date of this Ordinance that do not conform to the requirements of this Ordinance. The purpose of this Article is to regulate such nonconforming uses ~~to the full extent permitted by law~~.

13.2 PERMITTED CONTINUANCE

Unless otherwise stated herein, nonconforming Oil or Gas Facilities located anywhere within the County; that were legally permitted and have drilled an oil or gas bore hole of at least a length two hundred (200) feet or greater before the effective date of this Ordinance shall be permitted to continue. Legally permitted Oil or Gas Facilities which do not have an oil or gas bore hole of a length at least two hundred (200) feet or greater shall be required to apply for the appropriate County permit(s) as required by, and as set forth in this Ordinance.

13.3 PROHIBITION ON THE EXPANSION OF NONCONFORMING USES

~~(A)~~—Legal nonconforming Oil or Gas Facilities shall not be expanded, substantially modified, or increased without first obtaining all applicable permits and approvals required by this Ordinance, including, but not limited to, a special use permit if located within Frontier District or a development conditional use permit if located within the Energy Resource Development District. Examples of expansions, modifications and increases of a legal nonconforming use for which applicable permits and approvals must be obtained include, but are not limited to:

~~(B)~~(A) the substantial modification of an Oil or Gas Well.

~~(C)~~(B) The following do not constitute substantial modifications to a legally nonconforming Oil or Gas Facility requiring permits or approvals under this Ordinance:

(1) routine repairs and maintenance that will not result in an increase of the area of surface disturbed;

(2) activities associated with the planning of Oil or Gas Facilities or the preparation of applications for approvals under this Ordinance that do not result in the disturbance of the ground surface ~~of the ground~~.

13.4 ABANDONMENT OF NONCONFORMING USES

If any legal nonconforming Oil or Gas Facility is permanently abandoned as defined in this Ordinance, the use of such Facility thereafter shall not be allowed without first obtaining all applicable permits and approvals required by this Ordinance, including, but not limited to, a special

use permit if located within the Frontier District or a development-conditional use permit if located within the Energy Resource Development District

13.5 DAMAGE OR DESTRUCTION OF A NONCONFORMING USE

A legal nonconforming use of an Oil or Gas Facility that is demolished or destroyed by an act of nature or as the result of unintentional actions ~~not intended~~ and over which the owner of such facility had no control, the status of such facility as a legal nonconforming use shall be allowed to continue provided that the replacement of such facility is completed in accordance with all applicable County, Federal and State regulations.

ARTICLE 14 MISCELLANEOUS

14.1 INDEMNITY AND EXPRESS NEGLIGENCE

Each permit issued for an Oil or Gas Facility shall include the following language:

~~“THE OPERATOR DOES HEREBY EXPRESSLY RELEASE AND DISCHARGE; ALL CLAIMS, DEMANDS, ACTIONS, JUDGMENTS, AND EXECUTIONS WHICH IT OR ITS ASSIGNS EVER HAD, HAS OR NOW HAS OR MAY HAVE, OR ASSIGNS MAY HAVE, OR CLAIMS TO HAVE, PREVIOUSLY, CURRENTLY, OR IN FUTURE, AGAINST THE COUNTY OF RIO ARRIBA AND ~~OR~~ ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, SUCCESSORS, ASSIGNS, SPONSORS, VOLUNTEERS, OR EMPLOYEES, CREATED BY, OR ARISING OUT OF PERSONAL INJURIES, KNOWN OR UNKNOWN, AND INJURIES TO PROPERTY, REAL OR PERSONAL, ~~OR~~ IN ANY WAY INCIDENTAL TO OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK PERFORMED BY THE OPERATOR UNDER ANY OIL OR GAS PERMIT GRANTED UNDER, AND IN ACCORDANCE WITH THIS ORDINANCE.~~”

~~“THE OPERATOR SHALL FULLY DEFEND, PROTECT, INDEMNIFY, AND HOLD HARMLESS THE COUNTY OF RIO ARRIBA, NEW MEXICO, ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, EMPLOYEES, SUCCESSORS, ASSIGNS, SPONSORS, OR VOLUNTEERS FROM AND AGAINST EACH AND EVERY CLAIM, DEMAND, OR CAUSE OF ACTION, AND ANY AND ALL LIABILITY, DAMAGES, OBLIGATIONS, JUDGMENTS, LOSSES, FINES, PENALTIES, COSTS, FEES, AND EXPENSES INCURRED IN DEFENSE OF THE COUNTY OF RIO ARRIBA, NEW MEXICO, ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURIES AND DEATH IN CONNECTION THEREWITH WHICH MAY BE MADE OR ASSERTED BY THE OPERATOR, ITS AGENTS, ASSIGNS, OR ANY THIRD PARTIES ON ACCOUNT OF, ARISING OUT OF, OR IN ANY WAY INCIDENTAL TO OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK PERFORMED BY THE OPERATOR UNDER ANY OIL OR GAS PERMIT GRANTED UNDER, AND IN ACCORDANCE WITH THIS ORDINANCE.”~~

~~“THE OPERATOR DOES HEREBY EXPRESSLY ACCEPT UPON ITSELF, ITS DIRECTORS, OWNERS, OFFICERS AND MANAGERS ALL RESPONSIBILITY.”~~

CULPABILITY, AND ACCOUNTABILITY FOR ANY DAMAGES CAUSED BY THE OIL OR GAS ACTIVITY APPROVED BY THIS PERMIT TO NATURAL RESOURCES SUCH AS WATER, SOIL AND AIR, AND FOR ANY DAMAGE CAUSED TO THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE COUNTY OR TO ANY USER, WHETHER AN INDIVIDUAL, A COMMUNITY, MUNICIPALITY, OR COUNTY, LOCATED DOWNSTREAM FROM RIO ARRIBA COUNTY, OF WATER OR OTHER RESOURCES THAT ORIGINATE OR TRAVERSE RIO ARRIBA COUNTY. IN THE EVENT THAT ANY SUCH DAMAGES OCCUR DUE TO THE OIL OR GAS ACTIVITY, THE APPLICANT OR OPERATOR DOES AGREE TO PAY ALL MONEYS AND OTHER COMPENSATIONS REQUIRED TO RECTIFY, REPAIR, REPLACE, REIMBURSE FOR, AND REMEDY ALL MATTERS OF DAMAGES CAUSED BY THE OIL OR GAS ACTIVITY TO ALL AFFECTED PERSONS OR ENTITIES, AND FOR ALL AFFECTED CULTURAL OR NATURAL RESOURCES AND ECOSYSTEMS, IN PERPETUITY WHEN APPROPRIATE. SUCH COMPENSATION SHALL BE REQUIRED FOR DAMAGES TO LAND, CROPS, FENCES, BUILDINGS, WATER WELLS AND AQUIFERS, PONDS, LIVESTOCK, AND ANY OTHER PROPERTY OR NATURAL RESOURCE.”

14.2 SEVERABILITY

The provisions of this Ordinance may be severed from one another without affecting the force of law of each individual provision on its own. If any provision, section, clause, sentence, or portion of this Ordinance shall be ~~held deemed invalid, illegal, or unconstitutional or non-enforceable~~ by any court of competent jurisdiction ~~for any reason~~, the remainder of this Ordinance shall not be affected and shall be valid and ~~enforceable in force to the fullest extent of the law.~~

14.3 REPEALER.

All inconsistent provisions within prior Ordinances adopted by the County are hereby repealed, but only to the extent necessary to remedy the inconsistency.

14.4 EFFECTIVE DATE

As necessary to protect the public health and safety, this Ordinance ~~proposed for adoption~~ shall take effect immediately upon its recordation by the County Clerk.

REVIEWED, APPROVED, AND ADOPTED ON THIS 20TH DAY OF ~~MAY~~ 2009 2013, BY THE RIO ARRIBA BOARD OF COUNTY COMMISSIONERS:

~~ELIAS CORIZBARNEY TRUJILLO, CHAIRPERSON~~
DISTRICT I COMMISSIONER

Comment [BS1]: To be determined

ALFREDO MONTOYA
DISTRICT II COMMISSIONER

~~**FELIPE MARTINEZ**~~~~**DANNY GARCIA**~~
DISTRICT III COMMISSIONER

ATTEST:

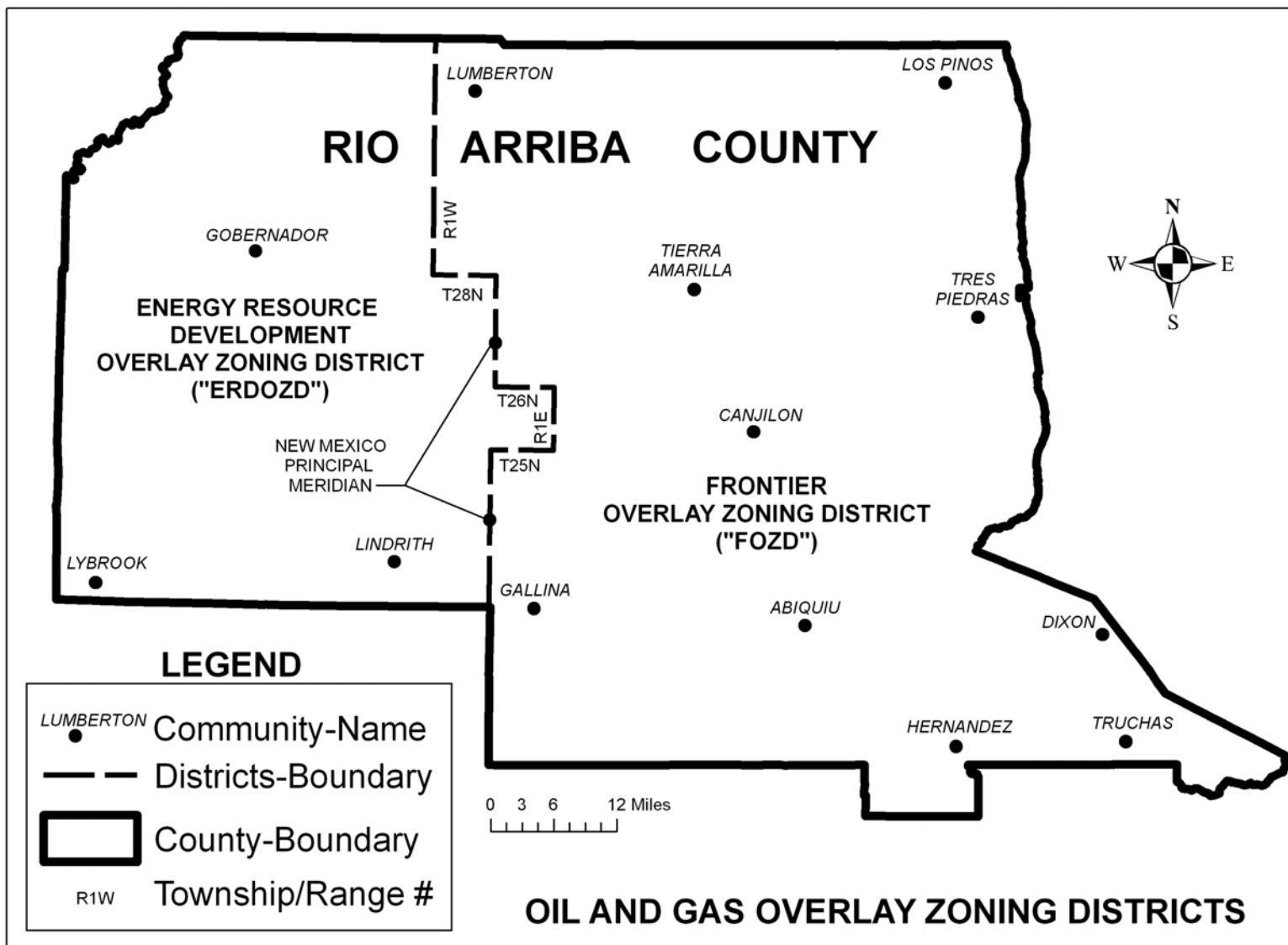
MOISES A. MORALES, JR., RIO ARRIBA COUNTY CLERK

CERTIFICATE OF FILING

I, MOISES A. MORALES, JR., County Clerk, do hereby certify that the foregoing ordinance designated as Ordinance ~~2009-04~~2013-03 was filed in my office on the _____ day of _____ 2009-2013 in Book Number _____ Pages _____

MOISES A. MORALES, JR., COUNTY CLERK

EXHIBIT "A"



~~EXHIBIT "A"~~

~~Rio Arriba County
Energy Resource Development
District~~

